No. 34263

IN THE

Supreme Court of Illinois

JANUARY TERM, A. D. 1957.

CHICAGO LAND CLEARANCE COMMISSION, a municipal corporation,
Appellee,

vs.

QUINN HOME BUILDERS, a corporation of Illinois, et al., THOMAS O'DONNELL and MARY O'DONNELL,
Appellants.

Appeal from Circuit Court of Cook County.

Eminent Domain

Honorable Denis J. Normoyle, Judge Presiding.

Abstract of Record

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The Scheffer Press, Inc.—ANdover 3-6850

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IN THE

SUPREME COURT OF ILLINOIS

JANUARY TERM, A. D. 1957.

CHICAGO LAND CLEARANCE COMMISSION, a Municipal Corporation, Appellee, vs. QUINN HOME BUILDERS, a Corporation of Illinois, Et Al., THOMAS O'DONNELL and MARY O'DONNELL, Appellants.	Appeal from Circuit Court of Cook County. — Eminent Domain — Honorable Denis J. Normoyle, Judge Presiding.

ABSTRACT OF RECORD.

Page of Record

1 Placita, Circuit Court of Cook County, Illinois.

3 Petition to Condemn filed June 7, 1955 by Chicago Land Clearance Commission alleging that petitioner is a municipal corporation; that the action is instituted under the "Blighted Areas Redevelopment Act of 1947" as amended in 1949 and 1951; that petitioner was organized under this statute; that on July 26, 1950 petitioner determined that a certain area was a blighted vacant area under such statute because of "obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or taxes or special assessment delinquencies exceeding the fair value of the land"; that said determina-

tion was approved by the Chicago City Council and the State Housing Board; that the purpose of taking the property is to clear it and make it available for redevelopment and this is a public purpose; that petitioner tried to acquire it by gift or purchase and was unable to do so; that the acquisition of parcels described in the petition is necessary; that certain people whose names are set out in the petition are the owners of the real property described in the petition including the respondents, Thomas O'Donnell and Mary O'Donnell, who are the owners of Parcel 2-45 legally described as

> Lot 11 in Block 9 in John R. O'Connor's Beverly Gateway, being a subdivision of the East half of the South Half of the Southeast Quarter, etc. in Section 25, Township 38 North, Range 13, East of the Third Principal Meridian in Cook County, Illinois;

that the County Treasurer and the County Clerk of Cook County are to be made parties because of possible real estate tax liens and that the City of Chicago is made a party because of a possible interest due to special assessments; that others should be made defendants as "Unknown Owners" and the petition prays for process to issue, that just compensation for the real estate be ascertained and that petitioner be vested with a fee simple title to the real estate.

Traverse of respondents, Thomas O'Donnell and Mary O'Donnell and others, denying and calling for strict proof that petitioner is authorized to condemn the property of respondents; that petitioner seeks to acquire the property for a proper public purpose; that all necessary conditions exist so that petitioner may condemn; that the "Blighted Areas Redevelop-

ment Act of 1947" as amended applies to respondents' property; that the classification of respondents' property as a blighted vacant area or as a portion of a slum or blighted vacant area is a proper classification, and respondents state that such classification is unreasonable and unsound; that petitioner's determination of July 26, 1950 is a fair, proper and just determination, and, even if it was, it was made five years before the condemnation petition; denies that as of the date of filing such condemnation petition the said area was blighted by "obsolete platting" etc., but asserts the development of the area was arrested by activities of petitioner; denies that the action of the City Council of Chicago approving petitioner's determination was a fair and just action; denies that the State Housing Board, in approving petitioner's determination, acted fairly or properly or legally; denies that the redevelopment plan conforms to the Building and Zoning Ordinances of the City of Chicago; denies that property of respondents is necessary or required for the purposes stated by petitioner; denies that any proper legal determination was ever made; denies that the property of respondents was in a slum or blighted area or a blighted vacant area; denies that the definition of a slum or a blighted or blighted vacant area contained in said Act applies to the property of respondents; and asserts that the "Blighted Areas Redevelopment Act of 1947" as amended is invalid for the reasons that it purports to delegate legislative functions without establishing appropriate rules and procedures; it is invalid because said Act embraced more than one subject and said subjects are not expressed in the title thereof and asks that the petition to condemn be dismissed.

41 Stipulation Of Facts between the parties, exclusive of caption and signatures, as follows:

STIPULATION OF FACTS

It Is Hereby Stipulated and Agreed by and between the parties to this cause, by their respective attorneys of record, that:

(1) For all purposes of this case, in the Circuit Court of Cook County, Illinois, and in every other court in which this cause at any time pends, whether by appeal or otherwise, the facts stated in the "Statement of Agreed Facts", hereinafter set forth, shall be, as between the parties hereto, taken as true without further proof.

(2) Each of said parties reserves the right to question, by objection or otherwise, to the extent and in the same manner that he, she or it might so question had this stipulation not been executed, the relevancy, materiality and competency as a matter of law of any fact stated in said "Statement of Agreed Facts". Neither the execution of this stipulation, nor any provision of it, nor the inclusion of any fact in the "Statement of Agreed Facts", shall be construed as an admission by either party of the relevancy, materiality or competency of any fact in this cause.

(3) Each and every of the parties hereto reserves the right to introduce any further evidence which is material or relevant to the issues involved in the above entitled cause, to the extent and in the same manner that the said party might introduce such evidence had this stipulation not been executed.

(4) The matters contained in the "Statement of Agreed Facts" are not to be considered to be an admission of said facts by either party other than for the purposes of this trial, and are not to be binding
42 upon either party except in this cause.

STATEMENT OF AGREED FACTS

Subsequent to July 26, 1950 (the date on which the Chicago Land Clearance Commission adopted its resolution making a determination that the area bounded generally by West 77th Street, South Western Avenue, West 79th Street and South Rockwell Street, is a blighted vacant area), and prior to June 7, 1955 (the date on which the petition to condemn was filed in the above entitled cause), delinquent general real estate taxes for the year 1946 and prior years were cleared by tax foreclosure proceedings on each of the following lots lying within said area, namely:

Lots 20 to 31, both inclusive, and Lots 34 and 35 in Block 1;

Lots 1, 2, 3, 6, 7, 16, 22, 23, 24, 26, 27, 28, 30, 31 and 34 in Block 2;

Lots 11, 12, 17, 20, 24, 26, 27, 29 and 30 in Block 3;

Lots 1, 2, 3, 11 and 17 in Block 4;

Lots 3, 4 and 5 in Block 5;

Lots 1, 2, 4, 5, 6, 7, 8, 9, 11, 12 and 13 in Block 7;

Lots 3, 4, 6, 8, 12, 13, 14, 15, 21, 22, 23, 24, 25, 29, 31 and 34 in Block 8;

Lots 1, 5, 6, 7, 8, 9, 10, 12, 13, 17, 18, 19, 21, 26, 27, 30, 31 and 32 in Block 9; and

Lots 1, 2, 3, 4, 6, 11, 12, 26, 27, 28, 34, 35, 37, 39 and 40 in Block 10;

all in John R. O'Connors Beverly Gateway, being a subdivision of the East half (E ½) of the South half (S ½) of the Southeast Quarter (SE ¼) (excepting streets as widened, also railroad right of way) of Section Twenty-five (25), Township Thirty-eight (38) North, Range Thirteen (13) East of the Third Principal Meridian, in Cook County, Illinois.

The principal amount of taxes for the year 1946 and prior years so cleared through said foreclosure proceedings amounted to approximately $72,000.00.

In connection with said tax foreclosure proceedings the taxes for years subsequent to 1946, which were delinquent at the time of said tax foreclosure proceedings, were likewise paid in full with full penalties, and taxes for years subsequent thereto have been paid currently as the same became due.

The attached exhibit shows by lot and block number the case number of each foreclosure proceeding, the date the complaint in said proceeding was filed,
43 the date of decree of sale, the date of the decree confirming the sale, the years of delinquent taxes which were included in said foreclosure proceeding, the principal amount of the taxes included in the foreclosure proceeding, and the amount of the bid at the foreclosure sale.

If there is any discrepancy between the dates set forth in the paragraph hereof which immediately follows the heading "Statement of Agreed Facts" and the exhibit attached thereto, the dates shown in the exhibit attached hereto are correct.

LOT	BLOCK	CASE NO.	DATE FILED IN COURT	DATE DECREE OF SALE	DATE OF DECREE CONFMG. SALE	YRS. DELQT. TAXES COMPRMSD.	AMT. COMPRMSD.	AMT. OF BID
20	1	54C10583	7-16-54	8-12-54	9-10-54	1928-46	$1749.22	169.00
21	"	"	"	"	"	"	1729.22	169.00
22	"	"	"	"	"	"	1779.63	169.00
23	"	"	"	"	"	"	2668.32	259.00
24	"	51C8240	8-23-51	2-17-53	3-20-53	1929-46	1499.78	165.00
25 to 30	"	49C13293	11-17-49	2-28-50	4-14-50	1934-43	1842.24	148.00
31	"	51C7571	8-3-51	11-13-51	1-8-52	1931-46	603.60	120.00
34	"	51C4509	5-5-51	7-2-51	8-10-51	1929-46	831.81	95.00
38	"	51C6543	7-3-51	10-1-51	11-6-51	1929-46	843.05	94.00
	2							
1-2-3	"	51C10527	10-25-51	12-19-51	2-1-52	1929-46	6350.93	675.00
6	"	51S8399	5-11-51	10-26-51	12-10-51	1928-46	1972.32	180.00
7	"	"	"	"	"	"	1972.32	180.00
16	"	54S6852	4-30-54	7-30-54	8-23-54	1929-46	1006.04	100.00
22	"	51S8399	5-11-51	10-26-51	12-10-51	1930-46	1280.70	220.00
23	"	51C5795	6-14-51	8-30-51	10-11-51	1929-46	1231.87	175.00
24	"	52S7459	5-15-52	7-31-52	8-22-52	1930-46	693.44	115.00
26	"	54S19684	12-22-54	3-1-55	4-21-55	1929-46	763.05	80.00
27	"	"	"	"	"	"	178.33	24.00
28	"	54S19490	12-17-54	2-11-55	3-15-55	1941-46	178.22	24.00
30	"	54S19490	"	"	"	1928-46	933.20	90.00
31	"	"	"	"	"	"	933.20	90.00
34	"	54S19684	12-22-54	3-1-55	4-21-55	1929-46	583.99	80.00
	3							
11	"	54S6852	4-30-54	7-30-54	8-23-54	1932-46	588.89	60.00
12	"	"	"	"	"	"	588.89	60.00
17	"	"	"	"	"	"	177.37	30.00
20	"	55S2622	2-23-55	4-15-55	5-31-55	1930-46	732.52	72.00
24	"	51S3399	5-11-51	10-26-51	12-10-51	1929-46	614.12	110.00
26	"	53S2637	2-26-53	4-16-53	7-31-53	1931-46	587.01	100.00
27	"	"	"	"	"	"	587.01	100.00
29	"	52C10934	9-11-52	12-23-52	1-21-53	1929-46	733.88	98.00
30	"	54C3391	3-9-54	4-2-54	4-27-54	1929-46	770.79	78.00

LOT	BLOCK	CASE NO.	DATE FILED IN COURT	DATE DECREE OF SALE	DATE OF DECREE CONFMG. SALE	YRS. DELQT. TAXES COMPRMSD.	AMT. COMPRMSD.	AMT. OF BID
	4							
1, 2 & 3	"	52C15363	12-16-52	3-6-53	4-13-53	1932-46	$2933.22	$320.00
11	"	51S9007	5-22-51	9-7-51	10-31-51	1930-46	553.08	35.00
17	"	50C8743	9-20-50	12-18-50	1-24-51	1931-46	511.10	85.00
	5							
3	"	54S19490	12-17-54	2-11-55	3-15-55	1937-46	207.20	26.00
4	"	54C3391	3-9-54	4-2-54	4-27-54	1929-46	440.22	48.00
5	"	55S2622	2-23-55	4-15-55	5-31-55	1930-46	434.87	45.00
	7							
1	"	51S8399	5-11-51	10-26-51	12-10-51	1928-46	561.14	110.00
2	"	"	"	"	"	"	417.42	70.00
4	"	54S19490	12-17-54	2-11-55	3-15-55	1928-46	484.24	50.00
5	"	51S8399	5-11-51	10-26-51	12-10-51	1930-46	364.58	70.00
6	"	"	"	"	"	"	364.58	70.00
7	"	"	"	"	"	"	364.58	70.00
8	"	"	"	"	"	"	378.99	70.00
9	"	"	"	"	"	"	378.99	70.00
11	"	"	"	"	"	"	378.99	70.00
12	"	52C7787	7-2-52	4-2-53	5-8-53	1928-46	491.24	60.00
13	"	"	"	"	"	"	491.24	60.00
	8							
3	"	51S15498	9-11-51	12-10-51	2-25-52	1933-46	375.87	65.00
4	"	51S8395	5-11-51	7-2-51	11-1-51	1930-46	519.60	104.00
6	"	51C11366	11-16-51	1-24-52	3-11-52	1931-46	459.58	46.00
8	"	54S19490	12-17-54	2-11-55	3-15-55	1930-46	607.88	65.00
12	"	"	"	"	"	"	607.88	65.00
13	"	54C3391	3-9-54	4-2-54	4-27-54	1929-46	660.91	68.00
14	"	"	"	"	"	"	660.91	68.00
15	"	"	"	"	"	"	660.91	68.00
2	"	52C7787	7-2-52	4-2-53	5-8-53	1928-46	545.23	75.00
22	"	"	"	"	"	"	545.23	75.00
2	"	"	"	"	"	"	545.23	75.00

LOT	BLOCK	CASE NO.	DATE FILED IN COURT	DATE DECREE OF SALE	DATE OF DECREE CONFMG. SALE	YRS. DELQT. TAXES COMPRMSD.	AMT. COMPRMSD.	A'NT. OF BID
	8							
24	"	52C7787	7-2-52	4-2-53	5-8-53	1928-46	$545.23	$75.00
25	"	"	"	"	"	"	492.78	75.00
29	"	54S1398	1-29-54	4-1-54	5-14-54	1928-46	562.37	58.00
31	"	54C3391	3-9-54	4-2-54	4-27-54	1929-46	513.54	68.00
34	"	54S19684	12-22-54	3-1-55	4-21-55	1929-46	696.60	70.00
	9							
1	"	51S3744	3-1-51	5-13-51	7-3-51	1932-46	338.65	65.00
5	"	43C1179	2-2-53	8-24-43	9-24-43	1934-40	178.41	50.00
6	"	51C984	1-31-51	3-12-51	4-10-51	1930-46	642.84	130.00
7 & 8	"	42C6500	5-18-42	11-10-42	1-14-43	1930-40	656.06	125.00
9	"	51S8399	5-11-51	10-26-51	12-10-51	1929-46	735.38	100.00
10	"	"	"	"	"	"	735.38	100.00
12	"	51S3744	3-1-51	5-13-51	7-3-51	1930-46	427.41	75.00
13	"	54S19684	12-22-54	3-1-55	4-21-55	1929-46	763.05	75.00
17	"	51S3744	3-1-51	5-13-51	7-3-51	1929-46	860.94	100.00
18	"	51S14280	8-20-51	11-26-51	1-31-52	1930-46	632.68	100.00
19	"	"	"	"	"	"	533.88	100.00
21	"	48C2332	2-26-48	2-16-49	3-13-49	1931-40	273.43	22.00
26 & 27	"	54S6852	4-30-54	7-30-54	8-23-54	1929-46	1364.62	140.00
30	"	54S19684	12-22-54	3-1-55	4-21-55	1929-46	683.58	70.00
31	"	52S4378	3-20-52	5-26-42	7-25-52	1929-46	608.00	60.00
32	"	"	"	"	"	"	608.00	60.00
	10							
1,2,3 & 4	"	48C14115	12-16-48	2-16-49	3-28-49	1930-40	3406.79	327.00
6	"	50C9322	10-11-50	8-22-51	10-9-53	1929-46	1191.55	175.00
11 & 12	"	52C3227	3-13-52	6-25-52	8-18-52	1929-46	2571.96	333.60
26	"	51S3744	3-1-51	5-13-51	7-3-51	1937-46	133.92	50.00
27	"	"	"	"	"	"	133.92	50.00
28	"	"	"	"	"	1930-46	614.57	100.00
34	"	"	"	"	"	1932-46	471.30	80.00
35 & 37	"	52C12609	10-16-52	12-5-52	2-4-53	1930-46	1337.66	100.00
39	"	51S3744	3-1-51	5-13-51	7-3-51	1932-46	265.11	50.00
40	"	"	"	"	"	"	322.93	50.00

48 Order of March 5, 1956, denying Traverse, exclusive of caption, as follows:

ORDER

This Matter having come on to be heard on the traverse and the traverse in the nature of motion to dismiss, filed in the above cause by the owners or parties interested in Parcels 2-25, 2-26, 2-27, 2-31, 2-41, 2-40, 2-45, 2-48, 3-69, 352, 3-56A and 3-72, by their attorneys, Daniel A. Gallagher and Thomas McNally, and the Petitioner, Chicago Land Clearance Commission, being represented by Elsa C. Beck, William F. Morrissey and William H. Dillon;

And the Court having examined the Petition to Condemn and the aforesaid pleadings filed by the said respondents, and having heard evidence and examined the exhibits introduced by the petitioner and respondents and having listened to the arguments of counsel and also examined the memoranda of law filed herein; and,

The Court having jurisdiction of the subject matter hereof and the parties hereto, and being fully advised in the premises;

It Is Ordered that the traverse and the traverse in the nature of motion to dismiss, heretofore filed herein as above set forth, be, and they are, hereby overruled and denied;

49 It Is Further Ordered that said parcels 2-25, 2-26, 2-27, 2-31, 2-41, 2-40, 2-45, 2-48, 3-69, 3-52, 3-56A and 3-72 be, and they are, hereby set for trial on the issue of just compensation on the 23rd day of April, 1956, at 10:00 A.M. o'clock.

To the entry of of which order, the respondents and each of them, by their respective counsel, duly object and except.

Enter: D. J. Normoyle
Judge

51 Order of March 5, 1956 as to exhibits, exclusive of caption, as follows:

ORDER

It Is Hereby Ordered that the objections to the exhibits designated as Petitioner's exhibits for Identification Nos. 8, 8A, 10, 11, 12, 13, 20, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 34 be, and the same are hereby, overruled and the said exhibits are hereby ordered admitted to evidence in this hearing on the Motions to Dismiss and the Traverses herein.

It Is Further Ordered that the objections to Petitioner's exhibits for identification numbered 14, 15, 16, 17, 18, 19, 21, 22 and 23 be, and the same are hereby sustained.

The Petitioner's objection to Respondents' exhibits for Identification 1 and 2 as of October 27, 1955, be, and the same are hereby overruled.

That the objections of Petitioner to Respondents' exhibit No. 1 for identification as of January 16, 1956; Respondents' exhibit No. 2 for Identification as of January 16, 1956 and Respondents' exhibit No. 3 for Identification as of January 26, 1956, and Respondents' exhibit four, be, and the same are hereby overruled. Said two exhibits of October 27, 1955, the
52 two exhibits of January 16, 1956, and the Respondents' exhibit No. 3 of January 26, 1956, together with Respondents' exhibit 4, are hereby admitted in evidence.

Petitioner's exhibit 24 for identification is the Mandate of the Supreme Court of Illinois in case No. 32520 of the Supreme Court and was filed with the Clerk of the Circuit Court of Cook County, Illinois, on April 24, 1953, and the objections thereto are

hereby overruled and said exhibit is declared admitted in evidence as Petitioner's exhibit 24.

The Stipulation of Facts in each of the three pending cases, signed by the attorneys for the Chicago Land Clearance Commission and the various Respondents in said three pending causes, which includes the "Statement of Agreed Facts", presented during the hearing is hereby admitted in evidence and is to be marked Exhibit Statement "A" as all objections thereto are overruled.

Enter: D. J. Normoyle
Judge

54 Verdict of Jury of May 23, 1956 as to Parcel 2-45 awarding the sum of $2850.00 as just compensation for the taking of property of respondents, said verdict being signed by foreman and 11 other jurors.

58 Judgment Order of May 23, 1956 on said verdict entering judgment for $2850.00 as just compensation for taking parcel 2-45, said judgment order being signed by Hon. D. J. Normoyle.

63 Post-Trial Motion filed June 18, 1956 by respondents asking that verdict and judgment be vacated and set aside and petition to condemn dismissed upon the ground that the court erred in overruling and denying the traverse of respondents in that as specified in said traverse and as shown by the hearings upon the traverse petitioner was not authorized to condemn respondents' property; that petitioner failed to establish by a prima facie case that it seeks to acquire the property for a proper public purpose; that it had failed to establish that all necessary circumstances and conditions existed and that it has complied with all legal requirements; that petitioner

failed to show that the Act authorized the acquiring of respondents' property; or that the Act applied to respondents' property; that petitioner failed to establish that the said Act is constitutional as applied to respondents' property; that it failed to show that said property and the area surrounding was a blighted vacant area within the definitions of the Act or that the classification of the property and the area as being a blighted vacant area and a part of such an area was not an unreasonable and unsound classification; that the Act specified that the land must be unmarketable because of tax delinquencies
63 exceeding the fair value of the land etc. and that in support of its said determination of July 26, 1950 petitioner placed in evidence a document dated July 26, 1950 entitled "Analysis and Recommendations of the Planning Division on the Blighted Vacant Land Site at 79th Street and Western Avenue" and said document affirmatively shows that petitioner mistakenly determined that said property was blighted because tax delinquencies exceeded not the fair value but the 1949 assessed valuation of said property as determined by the Assessor of Cook County five years before the Petition to Condemn was filed on June 7, 1955 and that said document also affirmatively shows that the petitioner found no delinquent special assessments of any consequence on said property; and that said document and other documents, including the Ordinance of November 4, 1954, affirmatively shows that the only site improvements are sewers and sidewalks and the sewers are in excellent condition; that even if the determination was valid as of July 26, 1950 it was not a valid determination because it was made five years before the filing of the Petition to Condemn on June 7, 1955; that the evidence shows

that the growth and development of the area was arrested and impaired by acts of the City of Chicago in revoking the building permits of respondents and others; that it was affirmatively shown that Plan No. 1 of Normandy Homes Inc. as developer was first adopted and that said Plan was wasteful in that it failed to utilize excellent sewers and that said Plan No. 1 was substituted for Plan No. 2, which plan was in violation of the Municipal code of the City of Chicago in that no public alleys were provided; that the second plan was ultra vires the petitioner in that it exempts, without authority, two vacant lots whose "owner has agreed to conform his building plan to our redevelopment plan"; and it seeks to condemn for off-street parking for the benefit of one private person and it seeks to condemn respondents' property to provide a recreational facility for persons not within the area; that it was affirmatively shown that no proper or legal determination was ever made that the property of respondents was in a slum or blighted area or a blighted vacant area; that it was affirmatively shown at the hearings on the Traverse that no tax delinquencies of any consequence existed as of the date of the filing of the petition to condemn on June 7, 1955 and it followed that as of said date the properties in said area were no longer "blighted" by tax delinquencies; that the delay of petitioner for a period of almost five years from July 26, 1950 until June 7, 1955 constituted an abandonment by petitioner; that said abandonment was apparent from the fact that a great number of tax foreclosures were filed to compromise tax delinquencies on 105 lots in the area and petitioner had done nothing to prevent said tax foreclosures from being instituted and com-

pleted; that it was shown at the hearings on the Traverse that petitioner did abandon the project and had permitted the erection of buildings or failed to prevent the erection of structures in the area from July 26, 1950 to November 4, 1954; that at the hearings on said Traverse evidence was adduced that petitioner, using assessed valuation in its determination of July 26, 1950, valued 32 residential lots in Block 9 in said project at an average value per lot of $357.00, a gross and incredible undervaluation in view of the verdict of the jury placing the value of respondents' lot in the same Block 9 at the sum of $2850.00; that the "Blighted Areas Redevelopment Act of 1947" as amended is invalid and that said Act fails to define the phrases "Diversity of ownership" and "obsolete platting" and "improper zoning" used in said Act and has therefore failed to set up proper standards to guide the petitioner and the City of Chicago and the State Housing Board and said Act is therefore unconstitutional as an improper delegation of legislative functions; that the entitling of said Act was improper; that said Act is unreasonable, arbitrary and discriminatory in that it seeks to make respondents' property subject to condemnation and acquisition because of non-payment of taxes on other properties not owned by respondents or subject to any control by respondents.

74 Order of July 2, 1956 as to Parcel 2-45, exclusive of caption, overruling and denying Post-Trial Motion, as follows:

ORDER

This cause coming on to be heard upon the Post-Trial Motion heretofore filed herein of the respondents, Thomas O'Donnell and Mary O'Donnell, his

wife, the owners of that parcel of real property described in this cause as Parcel 2-45, the Court having heard the arguments of counsel and after due deliberation by the Court,

It Is Ordered that said Post-Trial Motion is hereby overruled and denied.

Enter: D. J. Normoyle
Judge

76 Notice of Appeal and Proof of Service thereof both filed by the respondents in the office of the Clerk of the Circuit Court of Cook County, Illinois on August 28, 1956.

79 Praecipe For Record and Proof of Service thereof both filed by the respondents in the office of the Clerk of the Circuit Court of Cook County, Illinois on August 31, 1956.

82 Order entered by Hon. D. J. Normoyle on October 1, 1956 approving Report of Proceedings.

Report of Proceedings had and testimony taken before Honorable Denis J. Normoyle at hearings on the Traverse as to Parcel 2-45.

STATEMENT BY MR. MORRISSEY.

88 That the area involved in condemnation consists of about 40 acres and about 164 parcels and that a quo warranto case was appealed to the Supreme Court of Illinois and this case upheld the validity of the amendments to the Blighted Areas Act; that paragraph 6 of the Judgment Order of the Circuit Court of Cook County in the quo warranto case states "Said area described in the Plan is a blighted vacant area which, by reason of obsolete platting, diversity of ownership, deterioration of site improvements and

tax foreclosures exceeding the assessed value of the entire area is unmarketable."

STATEMENT BY MR. GALLAGHER.

93 That respondents in this action were not parties to that action and the decision that it is a blighted area as of that time is not binding upon respondents;
99 that the authorization for condemnation and the determination as of 1950 are stale and more than a reasonable time has elapsed between the time authorized to proceed and the time they actually did proceed; that conditions have changed and the determination that this might have been a blighted area in 1950 does not hold good in 1955.

104 Petitioner's Exhibit No. 1, the resolution of the City Council of the City of Chicago dated July 16, 1947 declaring the need for a Land Clearance Commission offered in evidence and received without objection.

106 Petitioner's Exhibit No. 2, certificate of necessity, dated August 25, 1947, of the State Housing Board authorizing creation of Chicago Land Clearance Commission offered in evidence and received without objection.

109 Petitioner's Exhibit No. 3, Certificate of Appointment of Chicago Land Clearance Commission Commissioners by Mayor of City of Chicago dated September 26, 1947 offered in evidence and received without objection.

112 Petitioner's Exhibit No. 4, Certificate of Approval dated September 26, 1947 of State Housing Board approving appointment of Chicago Land Clearance

Commission Commissioners offered in evidence and received without objection.

115 Petitioner's Exhibit No. 5, Certificate of Approval dated September 28, 1948 of State Housing Board approving re-appointment of Commissioner Michael J. Long offered in evidence and received without objection.

118 Petitioner's Exhibit No. 6, Certificate of Approval dated September 21, 1949 by State Housing Board approving re-appointment of Commissioner John McKinlay offered in evidence and received without objection.

122 Petitioner's Exhibit No. 7, Organization meeting, minutes of meeting held by Chicago Land Clearance Commission on October 28, 1947 offered in evidence and received without objection.

130 Mr. Morrissey: The petitioner now offers Petitioner's Exhibit No. 8 for identification, consisting of five pages, together with an attached pamphlet, with a green backing on the face thereof, of approximately 20 pages, and said report attached to the resolution has on the green face cover thereof "Report to the Commission-Site Designation and Redevelopment Plan—Redevelopment Project 2, Chicago Land Clearance Commission Plan Division". The petitioner offers said Petitioner's Exhibit No. 8 for identification in whole as Petitioner's Exhibit No. 8.

Mr. McNally: To which we object. It is an attempt to make a determination of the condition of the land without notifying in any way the parties at the time the petition was made, there is no evidence that anybody was served and so it is a violation of the rights guaranteed under the Constitution, it deprives the people of their property without due process.

Mr. Gallagher: I join in the objection and I further object to this exhibit which is apparently a determination of the Chicago Land Clearance Commis-
131 sion dated July 26, 1950, which is approximately five years before the filing of this lawsuit. I would say that more than a reasonable time has elapsed since this determination so that the determination at this time has no validity as a determination that this property is a blighted area. I object to its being received in evidence for the reasons stated by Mr. McNally and for the further reason that it is now obsolete.

The Court: I will have to read it before I could understandably pass on the objection. You may mark it and it can be held. Go on with the next.

Mr. McNally: So that we do not clutter up the record, can it be understood that any objections that
132 Mr. Gallagher makes I join in and any objections that I make Mr. Gallagher joins in.

The Court: All right.

Mr. Morrissey: The petitioner now offers Petitioner's Exhibit No. 9 for identification, purporting to be the ordinance of the City Council of the City of Chicago approving the determination and the plan of the Chicago Land Clearance Commission that Redevelopment Project No. 2 should be acquired. The ordinance is dated July 11, 1951.

Mr. Gallagher: I should like to note for the record that the ordinance approves a plan that is not the plan presently contemplated in the acquirement of this property. I also object to that because it is dated July 11, 1951, some four years prior to the commencement of these three condemnation suits. I say that the determination is obsolete by the passage of time, more than a reasonable length of time

has elapsed between the passage of that ordinance and the filing of the condemnation suits.

The Court: The instrument offered may be re-
133 ceived in evidence and marked as requested.

Petitioner's Exhibit No. 9, Ordinance of the City Council of the City of Chicago dated July 11, 1951 approving the determination of the Chicago Land Clearance Commission that Blighted Vacant Area Redevelopment Project Number 2 should be acquired and to approve the redevelopment plan for the said project received in evidence.

143 Petitioner's Exhibits Numbers 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 for identification offered in evidence and objections thereto made by respondents' attorneys. The Court reserves its ruling on said exhibits and objections.

Mr. Gallagher: Judge, Mr. Dillon and I have a stipulation—so as to make the record clear. It is stipulated that on September 19, 1951 John S. Boyle, State's Attorney of Cook County, filed the Quo Warranto proceedings in the Circuit Court of Cook County. It is also stipulated that these proceedings questioned the right of the Chicago Land Clearance Commission to proceed to acquire the very same real
198 property involved in this condemnation case, that is, the area in the City of Chicago bounded by 79th Street, 77th Street, Western Ave., and Rockwell Street. Is that our stipulation, Mr. Dillon?

Mr. Dillon: That is our stipulation.

Mr. Gallagher: It is further stipulated that an appeal was taken from the final judgment of the Circuit Court of Cook County in said Quo Warranto

proceedings and the opinion of the Supreme Court of Illinois in that appeal is reported in 414 Ill. 600.

Mr. Dillon: That is also stipulated.

Whereupon petitioner rested its case.

200 IRA J. BACH, called as a witness by the respondents, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Gallagher.

My name is Ira J. Bach. I live at 717 West Junior Terrace, Chicago. I am executive director of the Chicago Land Clearance Commission and have been so engaged since 1948. I am familiar with the document entitled "Report to the Commission, Site Designation, Redevelopment Plan, Redevelopment Project Number Two", prepared under my direction by the staff of the Chicago Land Clearance Commission.

I am generally familiar with the area bounded by Rockwell Ave., Western Ave., 79th St. and 77th St.,
205 the site of Redevelopment Plan No. 2. This area is improved with a public improvement which is a sewer grid system.

206 I am not familiar with the costs that the City has borne by reason of tax delinquency in that area and I do not know of any statistics of crime and brush fires in that vacant area. In the area the 79th St.
208 lots are mostly platted into twenty-five foot lots, as are also South Western Avenue lots. On the other
209 streets the lots average about thirty-five feet wide. I cannot recall how many of these twenty-five foot lots are under the same ownership.

210 I am familiar with the two lots at the Northeast corner of 79th and Artesian, legally described as Lots

38 and 39 in Block One in O'Connor's Beverly Gateway Subdivision, comprising a frontage of 67.23 feet on 79th Street.

212 I am familiar with the City Ordinance of November 4, 1954 which states that the owner of the two lots at the Northwest corner of 79th & Artesian Ave. within the project intends to build a commercial structure which will contain a real estate office and one or two shops and this owner has agreed to conform his building plan to our redevelopment plan. I am familiar with that statement.

218 I am also familiar with the langauge of the November 4, 1954 ordinance with respect to the recreation area at the west side of the project. At the present time we do not have an agreement to bring that area into being.

222 I know what is meant by diversity of ownership and I don't believe that the statute contemplated such diversity of ownership as where John Smith dies and leaves a lot with twelve children owning it. Diversity of ownership is where one owner owns a twenty-five foot lot and you have two hundred seventy-five lots with two hundred seventy-five different owners. When I use the phrase "diversity of ownership" I was talk-
223 ing about many lots being owned by many different people.

As of July 26, 1950 my plat shows Lots 4 and 5 in Block 2 under one ownership, Lots 6 and 7 in Block 2 under one ownership; Lots 8 9 and 10 in Block 2 are under one ownership; and it is a fair state-
226 ment that so far as diversity of ownership is concerned you have a diversity of several owners who all have frontages larger than twenty-five feet.

227 Lots 1, 2 and 3 in Block 3 are under one ownership; Lots 4 & 5 in Block 3 are under one ownership; Lots

6 and 7 in Block 3 are under one ownership; Lots 8, 9 and 10 in Block 3 are under one ownership.

With respect to Western Avenue Lots 1, 2, 3 and 4 in Block 10 comprising a frontage of 111.86 feet on South Western Ave. my plat shows one ownership.

With respect to Lots 7 and 8 in Block 10, 50 feet of frontage, these lots are under one ownership; Lots 5 and 6 in Block 10 are separate ownerships. Lots 13 and 14 in Block 10 are under one ownership; Lots 15 and 16 in Block 10 are under one ownership; Lots 17 and 18 in Block 10 are under one ownership; Lots 19 and 20 in Block 10 are under one ownership; Lots 21, 22 and 23 in Block ten are under one ownership.

With respect to the platting of the area I found streets 66 feet wide and alleys 16 feet wide. I found inside lots 35 feet wide. I found a set-back line on the interior streets of 20 feet.

Modern subdivision planning and modern city planning today has several standards which we try to reach in new platting, and new subdivisions, and in a case of this kind we felt it compulsory to assume modern planning standards so in the final plan we eliminated several streets. We eliminated the east-west streets within the project area and a portion of the north and south streets. We did not want any through traffic. We set it up as nearly as possible a quiet neighborhood. In so far as lot widths are concerned I think the minimum size lots recognized across the country today as standard is 40 feet, and as you see in our plan, although it doesn't show here, we made the size fifty feet of the individual lots here, that would be for single family homes. We decided that we would even go above the minimum standards and take what we considered to be our standards for

good planning in Chicago. In my opinion the way it was platted originally the platting was obsolete. We have eliminated 78th St. and 77th Pl. and 78th
243 Pl., and we have eliminated several of the alleys.
246 Most of the alleys have been eliminated.

Examination by Mr. McNally.

250 The original plan of development of Normandy Village was approved by the Chicago Land Clearance Commission, the State Housing Board and the Council of the City of Chicago. This plan was abandoned.

255 The determination made by the Chicago Land Clearance Commission dated July 26, 1950 is the only determination or survey that the Land Clearance Commission made as to whether or not the areas herein were blighted areas, and there has been no subsequent determination. As executive director and as keeper of their records, I don't know the condition of this land
258 as to general tax delinquency as of September 8th, 1954. There is no subsequent report to the Commission in so far as tax delinquency is concerned. There
259 was no investigation shortly before June 6, 1955 of the situation as to tax delinquency.

277 JAMES SHALLOO, called as a witness herein on behalf of respondents, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Gallagher.

My name is James Shalloo and I live at 7917 S. Green Street. I am a builder. I build residences and stores. I have done more building around that neighborhood where we are talking about than any other

neighborhood in the past 10 years. I am familiar with the area and I have done some building there. In the summer of 1949 I built a building at 7704 S. Artesian Ave. and a building at 7708 S. Artesian Ave.
279 I built 7704 S. Artesian Ave for Peter Kelly, and I built 7708 S. Artesian Ave. for John Weber and his wife.

280 Respondents' Exhibit 1 for identification as of January 16, 1956 is the permit which I took out to build another building in that area. I applied for it and it was granted to me on or before the date it bears.
281 I didn't complete the house because the Building Department of the City of Chicago wrote me a letter and told me the permit was revoked or cancelled. I don't have the letter. I gave it to the owner of the property, Tom O'Donnell.
285 After I received the letter I went to the Building Department of the City of Chicago. I saw one of the men at the desk and I approached somebody to see why the permit was revoked. I might have gone to two or three before I found out.
286 On the two houses that I built at 7704 S. Artesian and 7708 S. Artesian I supplied water facilities, pipes and so on to these two houses.

Cross Examination by Mr. Morrissey.

I don't have a legal description of the property located at 7704 S. Artesian and 7708 S. Artesian Avenue.

287 JAMES J. PICKETT, called as a witness by respondents, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Gallagher.

My name is James J. Pickett. I live at 8043 S.
288 Wood St., Chicago, Illinois. I am a builder by occu-

pation and I have done building in the City of Chicago, mostly within a mile of 79th and Western. I am generally familiar with the area from 79th to 77th Sts., Western to Rockwell.

I had a permit to build on Lot 13 in Block 7 in John R. O'Connor's Beverly Gateway Subdivision. I was retained to build a residence there by a Doctor
289 Carlson. The permit was issued in about 1953. They asked me to return it to the City Hall. I was notified by letter that my permit was revoked. I have looked at respondents' Exhibit 2 for identification as of January 16, 1956 and that is the letter of revo-
291 cation. I returned the permit pursuant to that letter.

I had proceeded under this permit as far as secur-
292 ing different sub-contractors to start the work. I had not done any actual construction or excavating. At the time the permit was revoked I had not done anything.

297 Mr. Morrissey: No cross-examination.

299 THOMAS O'DONNELL, a witness called on behalf of the Respondents, having been first duly sworn, testified as follows:

Direct Examination by Mr. Gallagher.

My name is Thomas O'Donnell. I live at 8243 South Troy Street, Chicago, Illinois. I own the property at 7722 S. Artesian Avenue, Chicago, Illinois. I have owned it since March, 1951.

300 On July 11, 1951 I applied for a building permit to erect a building on that property. The permit was granted to me. I got a letter from the Building De-
303 partment revoking the permit. I received it by mail from the Department of Buildings of the City of Chicago on or about August 10, 1951. My contractor
304 was Jim Shalloo.

306 Respondents' Exhibits 1, 2, and 3 for identification again offered in evidence, to which there was objection and the Court reserved its ruling.

313 HARRY I. KANE, a witness called on behalf of the Respondents, having been first duly sworn, testified as follows:

Direct Examination by Mr. Gallagher.

My name is Harry I. Kane. I live at 19 South Lotus in Chicago, Illinois. I am Chief Zoning Examiner for the Department of Buildings, City of Chicago. I have been employed in the Building Department of the City of Chicago since 1941 and have been Chief Zoning Examiner since 1950. Prior to that
314 time I was Assistant Zoning Examiner. As Assistant Zoning Examiner my duties required me to examine all applications submitted for building permits. Also I was required to check plans and to check for li-
315 censes, for sign boards and things of that sort. At that time I had authority to approve or disapprove all applications for permits. During the years 1950 to 1955 inclusive my duties generally were the same.

316 In connection with my duties I use reference books. I use the Chicago Zoning Ordinance. I have the book that I used with me at this time and it is the same book I have used since 1950. A portion of this book
317 has reference to the property located at 79th to 77th and Western Avenue to Rockwell in Chicago. I have
318 that particular portion of the book that indicates that property and it is actually marked Map 36. The notations on this map, C.O. 7/11/51, Page 617, and the
319 second date, 9/27/54, was the date on which we took
321 notice of an ordinance. The purpose of these mark-

ings was to notify us of any proposed use of that land for public purposes or land clearance for parks, and so forth and we hold the issuance of permits on
325 any of these flags we show in the book. I take into consideration the whole page.

Examination by Mr. McNally.

326 Since 1950 the Building Department has issued permits for this land. I don't know what the disposition was of those permits.

327 *Cross Examination by Mr. Morrissey.*

329 The final markings on the page, the date 9/27/54, is not my writing. It was put in there by someone unknown to me. The other marking refers to the Council Journal of Proceedings. I inserted this Council order of 7/11/51 for my own information. The
331 date was put in there to indicate to us that this was to be held for land clearance and that is the only
334 reason I know of. Some of these blocks are colored red and this coloring was done by a representative of the Zoning Board of Appeals of Chicago who comes up and marks our books any time that there is a change in the zoning ordinance.

Redirect Examination by Mr. McNally.

This is the book that I use in my official capacity as a Zoning Examiner for the Building Department, and I have been using that book since 1949 or thereabouts.

337 Mr. Gallagher: Now your Honor, we have worked out a stipulation on the tax situation and therefore in view of the stipulation I will withdraw my Notice to Admit Certain Facts heretofore submitted. The

stipulation is in writing and is to be part of the record in this Case and we offer it in evidence as Exhibit Statement "A".

Mr. Dillon: Judge, we have joined in this stipulation but we want it noted that we have agreed as to the facts as set forth in this stipulation but we object to the materiality, competency and relevancy of these facts. And we would like such objection to be noted for the record.

The Court: Your objection may be so noted.

Mr. Dillon: We understand Mr. Gallagher and Mr. McNally are willing to stipulate that a written offer to purchase was made to their clients, the owners of the property here in question, prior to the filing of the petition to condemn, and that such offer was not accepted.

Mr. McNally: It is so stipulated.

Mr. Gallagher: It is so stipulated.

Which was all of the evidence offered on the part of the Respondents.

339 Petitioner's Exhibit No. 8, Resolution No. 50-CLCC-56, Determination Of July 26, By Chicago Land Clearance Commission That land at 79th Street and Western Avenue should be acquired; that said land has been investigated; that the land lies between 77th and 79th Street, Rockwell Street and Western Avenue in the City of Chicago, Illinois; that the Com-
341 mission finds, based upon a study of said area by the Chicago Plan Commission and based upon a report on said area attached to said Determination and entitled "Analysis and Recommendations of the Planning Division of the Blighted Vacant Land Site at 79th and Western Avenue" dated July 26, 1950, that the area consists of predominantly open urban land

which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements or taxes or special assessment delinquencies exceeding the fair value of the land, substantially impairs or arrests the sound growth of the community and which is to be developed for predominantly residential uses; that said area should be acquired pursuant to the provisions of the statute; that
348 a diversity of ownership exists because 157 different owners would have to be contacted in order to ac-
349 quire 264 lots; that this great diversity of ownership when combined with other factors has prevented de-
350 velopment in the area; that "Exhibit XIII shows tax delinquencies as a percentage of the 1949 assessor's valuation by block; that it should be noted that in 5 of the 10 blocks the delinquency exceeds the total valuation; that in the area as a whole delinquencies exceed assessed value by almost $6300.00; that Exhibit XIV showing total tax delinquency as a percentage of the 1949 assessed valuation by lot indicates that in 45% of the lots delinquencies exceed the assessed value"; that according to Exhibit XIII
364 of the Analysis and Recommendations total tax delinquencies for 264 lots in the 10 blocks of the area amounted to a total tax delinquency of $123,796.44; that as depicted in the said exhibit assessed value of the 264 lots in the 10 blocks in the area amounted
365 to an assessed value of $117,499.00; that Exhibit XIV in said Analysis and Recommendations depicts graphically the total tax delinquency since 1927 as a percentage of 1949 assessor's valuation by lot.

373 Petitioner's Exhibit No. 8a, Resolution of Chicago Land Clearance Commission No. 51-CLCC-34 to approve the redevelopment plan for Blighted Vacant

Area Redevelopment Project No. 2 dated June 11, 1951.

378 Petitioner's Exhibit No. 10, Resolution No. 51-SHB-54 of State Housing Board Approving the Redevelopment Plan for Blighted Vacant Area Development Project No. 2 dated July 11, 1951.

383 Petitioner's Exhibit No. 11, Resolution No. 54-CLCC-74 of Chicago Land Clearance Commission to Approve the substituted Redevelopment Plan for Blighted Vacant Area Redevelopment Project No. 2 dated September 8, 1954.

403 Petitioner's Exhibit No. 12, Ordinance dated November 4, 1954 of the City of Chicago approving the substituted Redevelopment Plan for Blighted Vacant Area Redevelopment Project No. 2.

416 Petitioner's Exhibit No. 13, Resolution of the State Housing Board adopted November 17, 1954, Resolution 54-SHB-87 Approving Amended Redevelopment Plan For Blighted Vacant Area Redevelopment Project No. 2.

421 Petitioner's Exhibit No. 20, Final Judgment Order dated May 14, 1952 in Quo Warranto case, Circuit Court of Cook County No. 51 C 9074 entitled People of the State of Illinois, ex rel. John S. Boyle, State's Attrney of Cook County, Plaintiff, *vs.* City of Chicago, a municipal corporation; Chicago Land Clearance Commission, a municipal corporation, et al.

427 Petitioner's Exhibit No. 24, Mandate of the Supreme Court of Illinois dated March 23, 1953 affirming judgment of the Circuit Court of Cook County in Quo Warranto Cause 51 C 9074.

428 Petitioner's Exhibit No. 25, Chicago Zoning Ordinance Passed by the City Council of the City of Chi-

cago on April 5, 1923 as amended to and including December 31, 1944.

543 Petitioner's Exhibit No. 26, Amendment of July 11, 1951 to the Zoning Ordinance of the City of Chicago.

545 Petitioner's Exhibit No. 27, Amendment of December 9, 1954 to the Zoning Ordinance of the City of Chicago.

547 Petitioner's Exhibit No. 28, Amendment of December 9, 1954 to the Zoning Ordinance of the City of Chicago.

549 Petitioner's Exhibit No. 29, Amendment of December 16, 1954 to the Zoning Ordinance of the City of Chicago.

551 Petitioner's Exhibit No. 30, Amendment of December 9, 1954 to the Zoning Ordinance of the City of Chicago.

553 Petitioner's Exhibit No. 31, Amendment of December 9, 1954 to the Zoning Ordinance of the City of Chicago.

555 Petitioner's Exhibit No. 32, Amendment of December 9, 1954 to the Zoning Ordinance of the City of Chicago.

557 Petitioner's Exhibit No. 33, Amendment of December 9, 1954 to the Zoning Ordinance of the City of Chicago.

558 Petitioner's Exhibit No. 34, Amendment of December 9, 1954 to the Zoning Ordinance of the City of Chicago.

560 Respondents' Exhibit No. 1 as of Jan. 16, 1956, Permit issued by the Building Department of the

City of Chicago on July 11, 1951 to Thomas O'Donnell to erect a one-story residence at 7722 S. Artesian Avenue in Chicago, Illinois.

561 Respondents' Exhibit No. 2 as of Jan. 16, 1956, letter of the Department of Buildings of the City of Chicago to Mr. James J. Pickett revoking permit for erecting one-story residence at 2543 W. 77th St., Chicago, Illinois.

562 Respondents' Exhibit No. 3 as of Jan. 26, 1956, letter of the Department of Buildings of the City of Chicago to Mr. Thomas O'Donnell revoking permit for erecting one-story residence at 7722 S. Artesian Avenue, Chicago, Illinois.

563 Respondents' Exhibit No. 4 as of February 1, 1956, Map 36 of the copy of the Zoning Ordinance of the City of Chicago used by Mr. Harry I. Kane, Chief Zoning Examiner for the Department of Buildings of the City of Chicago, with markings on said Map 36.

564 Exhibit Statement "A", Stipulation of Facts, not abstracted because this Exhibit Statement "A" is heretofore abstracted, having also been filed in the lower court as a pleading. (See Record pages 41 to 46 and Abstract of said pages of the Record).

570 State of Illinois }
County of Cook } ss.

I, Denis J. Normoyle, Judge of the Circuit Court of Cook County, State of Illinois, presiding judge at the hearing of the above-entitled case, do hereby certify that the above and foregoing is a true and correct Report of Proceedings at the said hearing.

And, forasmuch, therefore, as the matters and things hereinbefore set forth do not otherwise fully appear of record, the petitioner tenders this, its Report of Proceedings, and prays that the same may be signed and sealed by the Judge of this Court pursuant to the statute in such case made and provided.

Which is accordingly done, this 11th day of October, A.D. 1956.

Denis J. Normoyle,
Judge of the Circuit Court of
Cook County

Examined and Approved,
William J. Dillon

571 Certificate of Francis X. Connell, Clerk of the Circuit Court of Cook County, that the above and foregoing is a true, perfect and complete record on appeal.

Daniel A. Gallagher,
Attorney for Appellants.

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SEP 13 1957
JOHN T. REY, Clerk

NO. 34263

In The

SUPREME COURT OF ILLINOIS

January Term, A. D. 1957.

CHICAGO LAND CLEARANCE COMMISSION, a municipal corporation, Appellee, vs. QUINN HOME BUILDERS, a corporation of Illinois, et al., THOMAS O'DONNELL and MARY O'DONNELL, Appellants.	)	Appeal from Circuit Court of Cook County. — Eminent Domain — Honorable Denis J. Normoyle, Judge Presiding.

ADDITIONAL ABSTRACT OF RECORD

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William F. Marrissey,
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Petitioner-Appellee.

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No. 34203

IN THE

SUPREME COURT OF ILLINOIS

January Term, A. D. 1957.

CHICAGO LAND CLEARANCE COMMISSION, a Municipal Corporation, Appellee,	)	Appeal from Circuit Court of Cook County.
vs.	)	Eminent Domain
QUINN HOME BUILDERS, a Corporation of Illinois, Et Al., THOMAS O'DONNELL and MARY O'DONNELL, Appellants.	)	Honorable Denis J. Normoyle, Judge Presiding.

ADDITIONAL ABSTRACT OF RECORD

Page of Record

134 Ordinance of the City of Chicago, dated July 11, 1951, entitled "Ordinance to Approve the Determination of the Chicago Land Clearance Commission that Blighted Vacant Area Redevelopment Project Number 2 should be acquired and to approve the Redevelopment Plan for said Project." Said Ordinance reads in part as follows:

134 WHEREAS, the Commission did, on July 26, 1950, by Resolution No. 50-CLCC-56, a certified copy of which has been delivered to the City Council of the City of Chicago, determine that a tract of land on the southwest side of the City of Chicago should be acquired by the Commission as an area of predominantly open platted

urban land which because [illegible] planning, [illegible] ship, deterioration of structures or of site improvements, or taxes or special assessment delinquencies exceeding the fair value of the land, substantially impairs or arrests the sound growth of the community and which is to be developed for predominantly residential uses, said tract of land having been designated as Blighted Vacant Area Redevelopment Project Number 2, * * *

135 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

1. That the determination of the Commission that the real property herein designated as Blighted Vacant Area Redevelopment Project Number 2 should be acquired is hereby approved by the City Council and the City Council hereby gives its approval to the acquisition of said area, or any portion or portions thereof, by the Chicago Land Clearance Commission for development for predominantly residential uses.

341 Petitioner's Exhibit 8, being Resolution No. 50-CLCC-56 of Chicago Land Clearance Commission, dated July 26, 1950, entitled "Determination that Land at 79th Street and Western Avenue should be acquired for a Blighted Vacant Area Redevelopment Project." Said Determination refers to the Blighted Areas Redevelopment Act of 1947, as amended (Ill. Rev. Stat. Chap. 67½ Sections 63 to 91), and reads in part as follows:

WHEREAS, the Chicago Plan Commission has made a study for the Chicago Land Clearance Commission of such lands in the City of

Chicago, Illinois, entitled 'Blighted Vacant Land' and dated May, 1950:

WHEREAS, the Chicago Land Clearance Commission, hereinafter referred to as a Commission, has investigated an area of predominantly open urban land, and has taken into consideration the characteristics of such land as presented in the said Chicago Plan Commission study, and

WHEREAS, the Executive Director of the Commission has hereupon presented to the Commission a report on said area entitled "Analysis and Recommendations of the Planning Division of the Blighted Vacant Land Site at 79th Street and Western Avenue," dated July 26, 1950, finding that certain land lying between 77th and 79th Streets, Rockwell Street and Western Avenue, in the City of Chicago, Illinois, containing 264 lots (here follows legal description) meets the requirements of Section 3(1) of the Act for a Blighted Vacant Area Redevelopment Project.

342

NOW, THEREFORE, be it resolved by the Chicago Land Clearance Commission that:

2. The Commission hereby finds that the area consists of predominantly open platted urban land, which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or taxes or special assessment delinquencies exceeding the fair value of the land, substantially impairs or arrests the sound growth of the community and which is to be developed for predominantly residential uses;

343 3. It is hereby determined that said area should be acquired pursuant to the provisions of the Act and the area is hereby designated as "Blighted Vacant Area Redevelopment Project Number 2."

345-372 Analysis and recommendations of the Planning Division on the Blighted Vacant Land Site at 79th Street and Western Avenue, dated July 26, 1950, which is, in words and figures, as follows:

ANALYSIS AND RECOMMENDATIONS OF THE PLANNING DIVISION ON THE BLIGHTED VACANT LAND SITE AT 79th STREET & WESTERN AVE.

July 26, 1950

INTRODUCTION

The 40 acre site bounded by 77th St.-79th St.-Western and Rockwell Avenues is an ideal example of "blighted vacant land" that "substantially impairs or arrests the sound growth of the community" as defined by Section 3 (L) of the Illinois Blighted Areas Redevelopment Act of 1947, as amended, and also Section 110 (c)(1)(iii) of Title I of the Housing Act of 1949, 81st Congress, 1st session. Further, this area contains the characteristics of blighted vacant land set forth in the Study of Blighted Vacant Land prepared by the Chicago Plan Commission in May, 1950.

BLIGHTED VACANT LAND AND SOUND COMMUNITY GROWTH

In order that the tremendous cost, both social and economic, of such blighted vacant land to the city be realized fully, it is important that some of its effects upon the community be considered.

Blighted vacant areas impair sound community growth for they cause a lack of balance in the city structure with the result that some areas are over-crowded and others are too thinly occupied. This is evidenced by the fact that many areas that are near transportation and places of employment are entirely vacant.

This lack of balance causes a wasteful and uneconomical use of the public utility plant, for the utilities have to be extended through and past these interstices to more distant areas at great expense to accommodate population growth. In general, development of these areas would not tend to increase the cost of utilities because these areas are already within the city framework of utilities, and by increasing the intensity of use, the per unit cost of many existing services is reduced.

In addition to the cost of utilities, such services as fire and police protection are increased because vacant areas are hazards from the standpoint of crime and brush fires. Other community costs are increased by the unnecessary building of new schools and parks which are already, in whole or in part, available near the vacant areas.

The tax delinquency found in these areas has a profound adverse effect on sound community growth, not only from the standpoint of loss of revenue from the area, but also from the added costs that these delinquencies cause, such as sending out tax bills and publishing tax delinquency lists. Eventually, the burden of delinquency falls upon the taxpayers of the city, and they are forced

[illegible] use to anyone else.

In these areas the title to the property becomes so complicated with delinquent taxes, unpaid special assessments, tax and quit claim deeds, and other liens that the cost and difficulties of clearing the title is prohibitive even when there exists a legitimate demand. Moreover, in many cases it is virtually impossible to find the owners.

The extent of delinquency and the lack of revenues in blighted vacant land tend to increase the city debt, and makes city borrowing more costly and difficult. Thus, the effect of tax delinquency is much greater than just the failure to produce revenue from an area.

The presence of obsolete platting, and wide diversity of ownership, are other typical characteristics of blighted vacant land. Narrow lots are undesirable in today's market because people have come to expect the amenities of more light and air instead of extremely crowded conditions, and mortgage insurance is unavailable where these lots are inadequate. A large diversity of ownership of parcels prevents effective consolidation of the lots so that larger homesites may be obtained. Moreover, in these areas there is an excess amount of area devoted to streets and alleys, and the amount of through traffic made possible in the design of these areas would constitute hazards to the safety of the population living in them were they developed as presently platted.

HISTORY AND LOCATION OF THE SITE

The history of this site at 79th and Western, and the surrounding area, indicates the manner in which this area has been bypassed in city growth. The site was subdivided and recorded in 1925, and is still essentially vacant. In the area to the south, subdivided at the same time, a few apartment buildings were built in the late twenties, and recently such a vast number of single family residential structures were erected that this latter area is completely built up now. The area to the immediate north of the site is also completely built-up. The aerial photo shows the built up nature of these areas. (Exhibit I)

The areas immediately to the east and west are designated for industrial use, and very little construction has taken place.

This 79th and Western site is crucially located with respect to opportunities for employment. In addition to the presence of commercial establishments along 79th Street and Western Avenue,

the rocket plant to the west, within one mile of commercial centers at 79th and Ashland, within four miles of the World's largest outlying shopping center, 63rd and Halsted Street, which employs hundreds of workers, and relatively close to the industrial clearing district. The general environment map (Exhibit 2) shows the crucial location of our site with respect to these and other employment opportunities as well as shopping and other community facilities.

Relatively close to the site there lie a Forest Preserve, Marquette Park, and two proposed parks that have been acquired by the Chicago Park District. Six public elementary, and a like number of parochial schools also exist within one mile of the site. Three more public and one more parochial school may be found by increasing the radius one-half mile. As the map shows, the site is very adequately served by public transportation.

With all of these facilities available, there is no doubt that the area is ripe for development and that its lack of use is obstructing sound community growth. It is now necessary to examine the factors that have caused this area to lie dormant while the surrounding area has been building up.

FACTORS IMPEDING DEVELOPMENT

There are many factors which have tended to impede the development of this area. Each factor will be examined individually, but it should be emphasized that it is not the effect of each factor per se that has prevented activity, but the combined effect of all the factors. This section will be devoted to presenting these obstacles.

Diversity of Ownership

The diversity of ownership in the area appears to be a major factor contributing to the present vacant status of the site. The fact that 157 different owners would have to be contacted in order to acquire 264 lots indicates the difficulty in undertaking large scale development.

The number of different lots per owner averages 1.7. An examination of Exhibits III and IV reveals that in 4 of the blocks the average falls to between 1.2 and 1.4 lots per owner and in only two blocks is the average 2 or more lots per owner and one of these already contains improved parcels which will not be acquired.

Exhibit V showing the diversity of ownership by lot reveals the degree to which lots are contiguously owned as well as the

Twelve owners hold 46 of the 264 lots. The lots owned by these 12 are so scattered through the site and amongst the 115 lots held singly, or 44% of the total number of lots, that assembly of a group of lots is extremely difficult. In addition to this diversity, as Exhibit V indicates, there are many lots held in split ownership.

Thus, there exists in the area a great diversity of ownership which when combined with other factors to be discussed has prevented development in this area.

Availability of Lots

a) Recent Activity

A study of lot transactions in this area indicates that from 1940 to-date on only 84 out of the total of 264 lots was there any activity. In transactions which did occur, 20 have been by warranty deed, 8 by tax foreclosure and 28 by either quit claim or tax deeds (See Exhibit VI). Thus, of the transactions which have occurred there are a greater number which have resulted only in the acquisition of equities or of tax titles, and a lesser number in actual transfer of the fee title.

Out of 61 transactions involving 84 lots which occurred 1940 to-date, only 1/4 occurred in the last three years, and the area remains substantially as undeveloped as it was ten years ago.

A comparison of the transactions which have occurred with Exhibit V reveals that these sales have not provided contiguously owned lots and that the extent of diversity of ownership is practically unchanged from that of ten years ago despite the transactions that have occurred.

b) No Name Parcels

An examination of the records of the County Tax Assessor's Office reveals that 100 lots of the 264 are carried as "No Name" which indicates the difficulty that office has had in locating the owners in the area. Tax bills have been consistently computed and mailed for these lots, and the costs of so doing incurred, yet no taxes have been paid.

c) Adverse Interests

Exhibit V shows the location of the lots on which there are adverse interests and Exhibit VII indicates that such adverse

interests affect 31 of the lots. We find that these 31 lots are widely scattered through the site increasing the difficulties of acquisition.

d) Other

Exhibit VII shows there are many lots held under split ownership by heirs of estates. The difficulties of finding these heirs or getting them to agree on selling terms increases the difficulty of assembling these lots.

Tax Delinquency

The tremendous cost to the city of tax delinquent property was discussed in the previous section.

Exhibits VIII thru XI show the number of lots in each block by the number of years these lots have been tax delinquent.

It will be seen from Exhibit VIII that for the entire area over 80% of the lots have been tax delinquent for one year or more. On over 1/3 of the lots taxes have not been paid for 20 years or more and on over 1/2 of the lots taxes have not been paid for 5 or more years.

Exhibits X and XI show that the number of lots tax delinquent has been increasing constantly at varying rates from 1927 to-date. 37 lots were delinquent in 1927 and 224 lots were delinquent in 1949.

The location of these delinquent lots is presented in Exhibits VIII through XII. Exhibit XII shows that there is no consistent spatial concentration of delinquent lots. The wide scattering on the heavily delinquent lots impedes the development of this area.

Exhibit XIII shows tax delinquencies as a percentage of the 1949 assessor's valuation by block. It should be noted that in 5 of the 10 blocks the delinquency exceeds the total valuation.

In the area as a whole, delinquencies exceed assessed value by almost $6300.

Exhibit XIV showing total tax delinquency as a percentage of the 1949 assessed valuation by lot indicates that in 45% of the lots delinquencies exceed the assessed value. This Exhibit also shows that the location of this 45% is so crucial that only haphazard development could result at all even if there were no other factors impairing the development of the site.

Revenues

Exhibits XIII, XV and XVI show the nature of the tax revenues received from the area since 1927. Here the striking failure of the area to yield revenue is revealed. In general the amount delinquent is almost twice as much as the revenue for the entire area and in one block the ratio is over 5 to 1. Revenue exceeds delinquencies in only one of the blocks as shown on Exhibit XVIII. Exhibit XVII shows that in almost one-half of the lots delinquencies exceed the revenues.

Obsolete Platting

Exhibit XIX shows the nature of the obsolete platting in this area. Only 9% of the lots are over 35' in width, approximately 2/3 of the lots are between 30' and 35', and the remaining 1/4 are 25' wide.

The obvious move to obtain wider lots would appear to be to purchase the adjacent lot, but the diversity of ownership and the difficulties of locating owners (frequently numerous heirs of the subdivider or his transferee) would make this a difficult if not impossible task. Furthermore, even if available lots were acquired and even if no other factors tended to impede the development of the area, there would probably be a residue of single lots lying between the improved lots. These single lots would never be developed, delinquency in the area would continue, and net costs of utilities would remain higher than were the area entirely developed.

The 25 foot wide lots along 79th Street and along Western Avenue were intended for business purposes. These lots constitute an excessive amount of business frontage for this area. Today several factors prevent these 25 foot wide lots from being devoted to residential use. One is that the lots are too narrow and are below FHA standards for mortgage insurance. Another is that there are original deed restrictions binding until November 1, 1955, unless wiped out, which direct that only commercial structures may be built on these lots. The third factor preventing these 25 foot wide lots from being put to residential use is the fact that they are being held in anticipation of commercial use and are too highly priced for residential use.

With the heavy traffic along Western Avenue and 79th Street it is necessary that the street pattern as platted for this area be revised. By such revision, through traffic with its real hazard to the safety of the inhabitants would be substantially diminished. About 35% of the entire area is devoted to streets

and alleys. This amount would be reduced were the area replatted and substantial savings in municipal maintenance costs would thus be made.

Lack of Utilities

One of the greatest factors discouraging development in this area is the lack of utilities. Only sewers and deteriorating sidewalks exist. Installation of streets and water mains would require the total development of the site at one time since it would be virtually impossible for separate individuals to have these utilities installed at different periods of time.

Summary

The difficulties of acquiring the site as it now stands have been pointed out. The diversity of ownership, the crucial location of heavily tax delinquent lots and the obsolete platting all combined have prevented enough development in the area to warrant the construction of streets and the installation of water mains and other basic utilities.

CONCLUSION

It has been pointed out that this area is ripe for development. In these days of housing shortage, available land for residential development is essential to the sound growth of the community. A number of factors have prevented the development of this area for residential construction. As it stands today, the area is impeding sound community growth.

As previously pointed out, no single factor can be held entirely responsible for the lack of development in this area. While there are various methods whereby some of the problems may be solved, more than piecemeal solutions must be sought.

If the site is not developed under modern planning standards, prospective purchasers will continue to turn to the vast tracts of raw land beyond the city limits raising the cost for all concerned while this area lies idle. To obtain a proper plan and to assure that the area will be developed it is recommended that this area be acquired by the Chicago Land Clearance Commission.

Such acquisition will eliminate the problems created by the great diversity of ownership, the obsolete platting, and the tax delinquencies. It would clear clouded titles and eliminate undesirable deed restrictions. It would permit replatting so as to attain more adequate lots, to eliminate dangerous through traffic, to reduce by approximately 20% the area in streets and alleys. Such acquisition and replatting would reduce the cost of utilities due to more compact layout.

Exhibit XX presents the current thinking of the Planning Division with respect to the revision of the platting.

Exhibit XXI shows the rating of this site as judged by the standards set up by the Chicago Plan Commission. The report of Dr. Homer Hoyt, our special consultant, is included as Exhibit XXII.

An analysis of the problems which this area presents indicates that with the aid of the Chicago Land Clearance Commission private enterprise will be able to develop this site under modern planning standards and thus promote sound community growth.

It is therefore recommended that the Chicago Land Clearance Commission determine this site, bounded by 77th St., 79th St., Western Avenue and Rockwell Avenue to be a blighted vacant area which should be acquired for a blighted vacant area redevelopment project pursuant to the Blighted Areas Redevelopment Act of 1947, as amended.

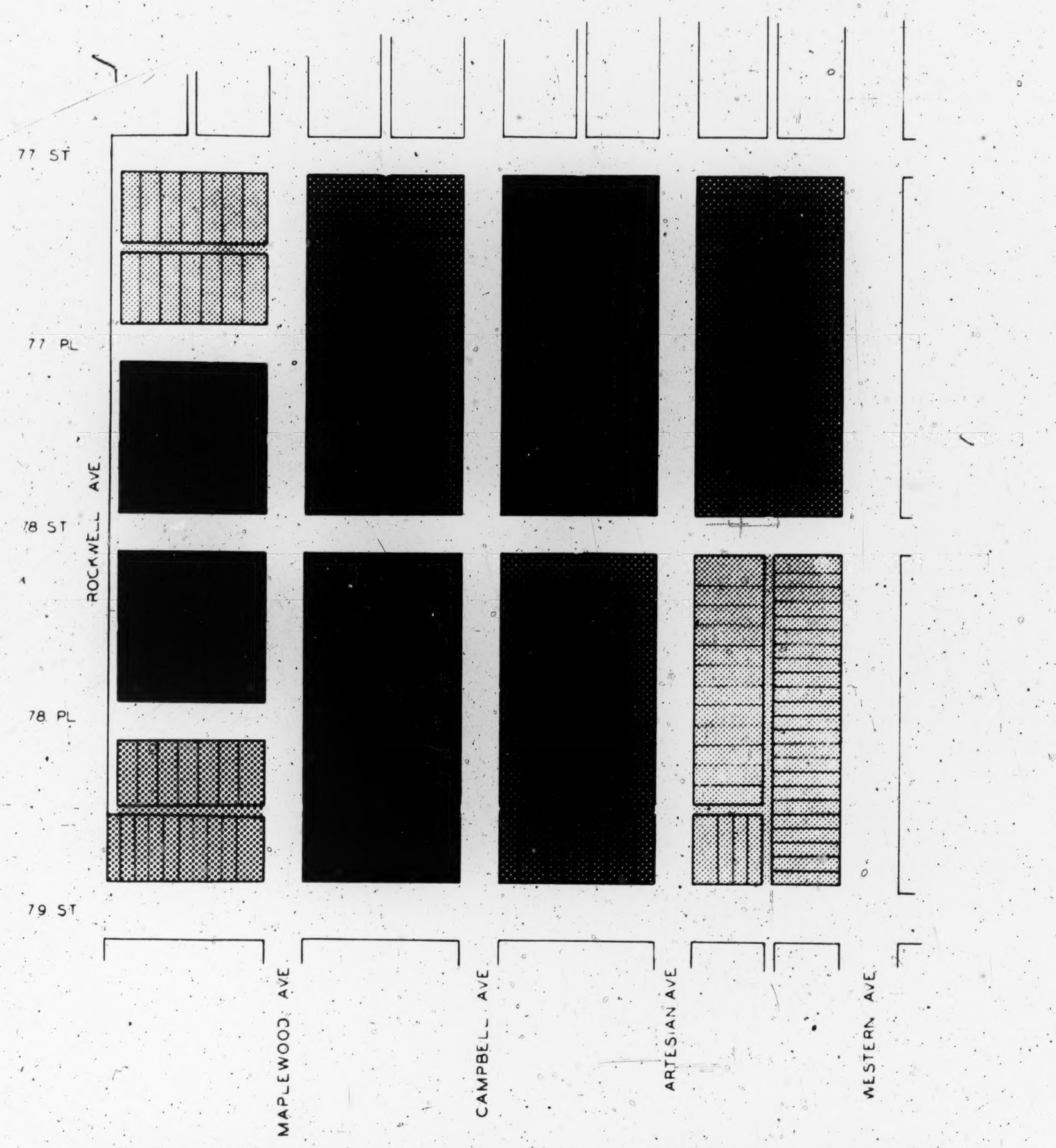
EXHIBIT I

NUMBER OF OWNERS BY BLOCK

BLOCK	NO. OF LOTS	NO. OF OWNERS	NO. OF LOTS PER OWNER
1	31	13	2.4
2	34	22	1.5
3	34	24	1.4
4	17	9	1.9
5	14	12	1.2
6	14	10	1.4
7	14	6	2.3
8	34	21	1.5
9	32	26	1.2
10	40	26	1.5
TOTAL	264	169	1.6
		157*	1.7

*12 owners own lots in more than one block.

Exhibit IV


77 ST
77 PL
ROCKWELL AVE.
78 ST
78 PL
79 ST
MAPLEWOOD AVE
CAMPBELL AVE
ARTESIAN AVE
WESTERN AVE
AVERAGE NUMBER OF LOTS PER OWNER BY BLOCK
1.2 - 1.4
1.5 - 1.7
1.8 - 2.0
2.1 - 2.4
100 200 300 400
LAND CLEARANCE COMMISSION

77 ST

77 PL.

ROCKWELL AVE.

78 ST

78 PL.

78 PL.

79 ST

MAPLEWOOD AVE.

CAMPBELL AVE.

ARTESIAN AVE.

WESTERN AVE.

PARCEL OWNERSHIP

CHANGE IN OWNERSHIP INDICATED BY PATTERN CHANGE. IDENTICAL NUMBERS ON SEPARATE PARCELS INDICATE OWNERSHIP BY IDENTICAL PARTIES. ADVERSE INTEREST INDICATED BY CROSS STRIP, SPLIT OWNERSHIP THUSLY:

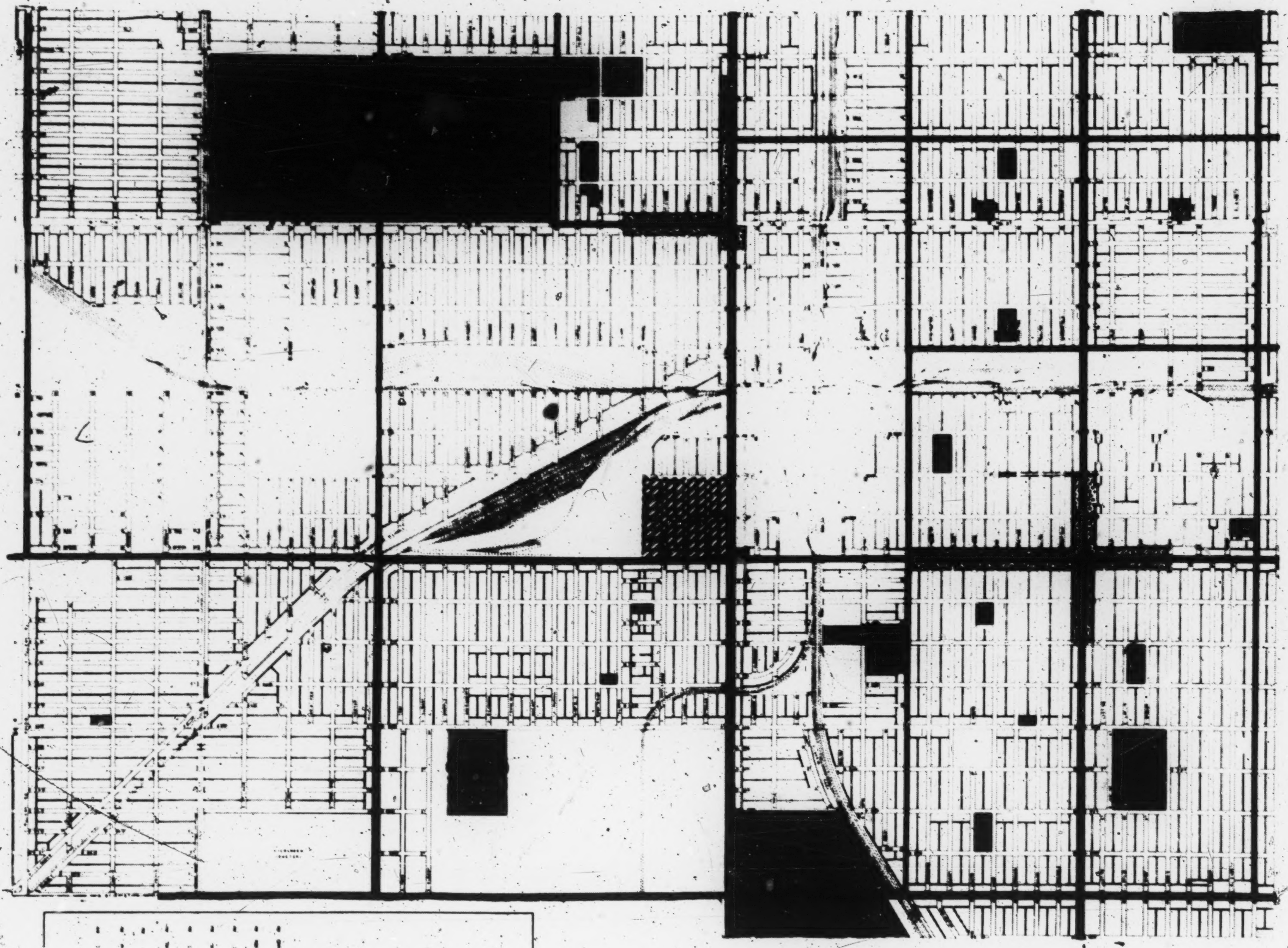
EXISTING STRUCTURES

COMMERCIAL

RESIDENTIAL

0 100 200 300 400

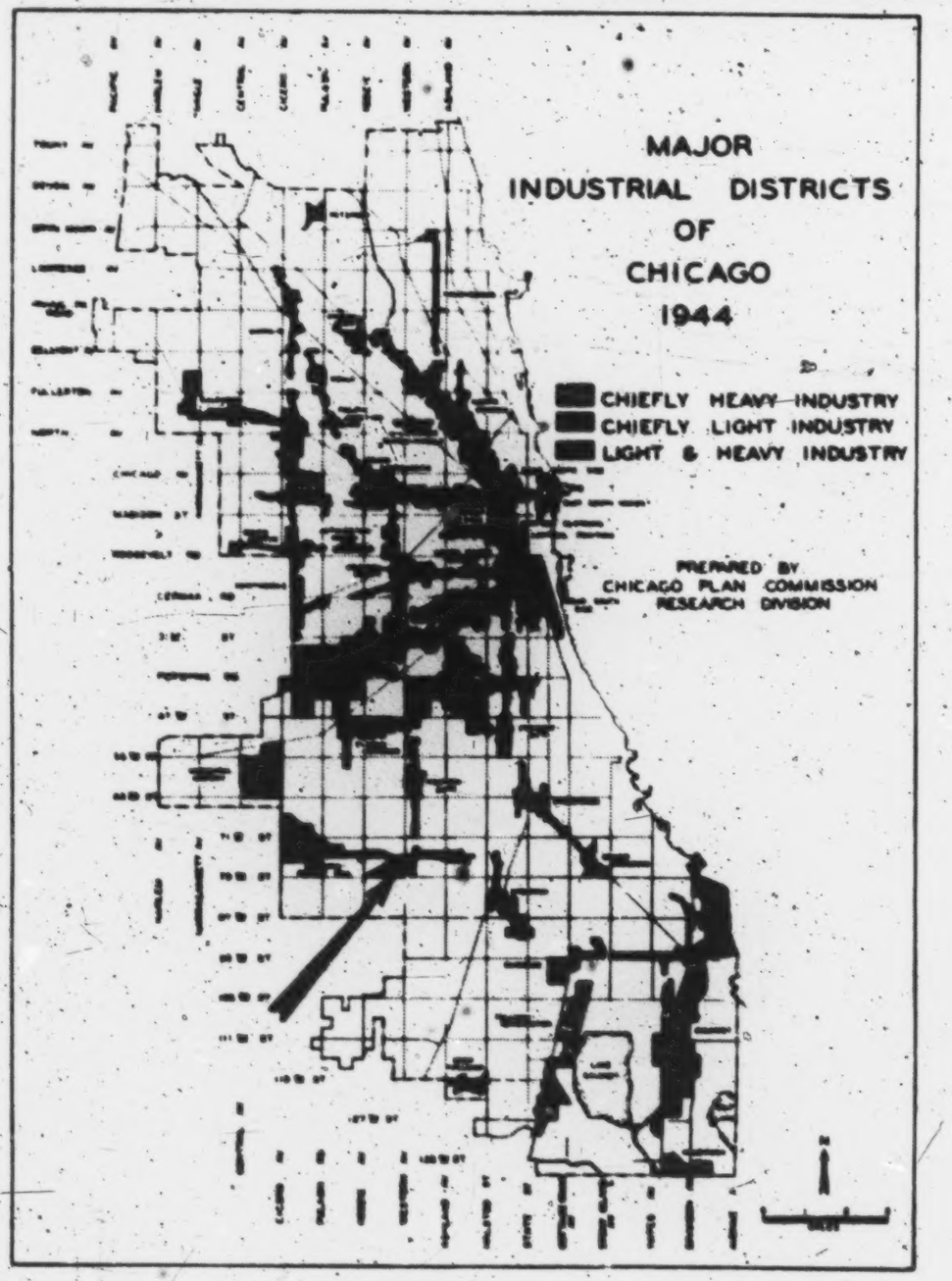
CHICAGO LAND CLEARANCE COMMISSION



79 ST

AERIAL PHOTO

DATE APRIL 9, 1949



COMMUNITY FACILITIES AND TRANSPORTATION

79TH & WESTERN AVE

PROPOSED SITE
PROPOSED PARKS
SCHOOLS - PUBLIC
SCHOOLS - PAROCHIAL
C.T.A LINES
PARKS
SHOPPING

TRAVEL TIME BY C.T.A. FROM SITE

LOOP	1 HOUR
STOCKYARDS & NEARBY INDUSTRY	35 MIN.
79 & ASHLAND - MAJOR SHOPPING	10 MIN.

EXHIBIT VI

PARCEL TRANSACTIONS SINCE 1940

TYPE	NO.	%
Quit-Claim	26	44
Tax Foreclosur	8	13
Warranty Deed	20	32
Tax Deed	2	3
Total (involves 84 lots)	61	100

EXHIBIT VII

See Chicago Title & Trust Company ownership data. (Bound separately.)

VACANT LOTS BY NUMBER OF YEARS DELINQUENT

BLOCK	20 YRS. OR MORE		10 - 19		5 - 9		1 - 4		CURRENT (1949)		TOTAL	
	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%
1	7	22.6	3	9.7	0	0.0	17	54.8	4	12.9	31	100
2	14	41.2	2	5.9	2	5.9	8	23.5	8	23.5	34	100
3	9	26.5	9	26.5	2	5.9	6	17.6	8	23.5	34	100
4	6	35.3	6	35.3	0	0.0	4	23.5	1	5.9	17	100
5	3	21.4	4	28.6	0	0.0	3	21.4	4	28.6	14	100
6	0	0.0	0	0.0	1	7.1	11	78.6	2	14.3	14	100
7	11	78.6	0	0.0	0	0.0	2	14.3	1	7.1	14	100
8	17	50.0	3	8.8	1	3.0	5	14.7	8	23.5	34	100
9	12	37.5	3	9.4	1	3.1	11	34.3	5	15.7	32	100
10	9	22.5	7	17.5	2	5.0	16	40.0	6	15.0	40	100
TOTAL	88	33.4	37	14.0	9	3.4	83	31.4	47	17.8	264	100

EXHIBIT IX

VACANT LOTS BY NUMBER OF YEARS DELINQUENT BY BLOCKS

BLOCK	20 YRS. OR MORE		10 - 19		5 - 9		1 - 4		CURRENT (1949)		TOTAL	
	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%
1	7	8.0	3	8.1	0	0.0	17	20.5	4	8.5	31	11.7
2	14	15.9	2	5.4	2	22.2	8	9.6	8	17.0	34	12.9
3	9	10.2	9	24.4	2	22.2	6	7.2	8	17.0	34	12.9
4	6	6.8	6	16.2	0	0.0	4	4.8	1	2.1	17	6.4
5	3	3.4	4	10.8	0	0.0	3	3.6	4	8.5	14	5.3
6	0	0.0	0	0.0	1	11.1	11	13.3	2	4.3	14	5.3
7	11	12.5	0	0.0	0	0.0	2	2.4	1	2.1	14	5.3
8	17	19.3	3	8.1	1	11.1	5	6.0	8	17.0	34	12.9
9	12	13.7	3	8.1	1	11.1	11	13.3	5	10.7	32	12.1
10	9	10.2	7	18.9	2	22.2	16	19.3	6	12.8	40	15.2
TOTAL	88	100.0	37	100.0	9	100.0	83	100.0	47	100.0	264	100.0

SOURCE: COMPUTED FROM TAX REPORTS

Chicago Land Clearance Commission
June 10, 1950

EXHIBIT X

PROGRESSIVE NUMBER OF LOTS DELINQUENT EACH YEAR FROM 1927 TO DATE BY BLOCKS

Block	Delinq. 20 or More Years			10-19 Yrs Delinquent										5-9 Yrs Del					1-4 Yrs Delinq.				Current	Total
	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	
1	6	1		1			2														2	15	4	31
2	4	8	2	1				1						2						2		6	8	34
3	3	2	4	6	2		1							1	1							6	8	34
4	2	4			3				1		2	1										2	1	17
5		1	2								2								2			3	4	14
6																	1				1	9	2	14
7	5		6																1		2	2	1	14
8	12	2	3	1		1						1					1				2	3	8	34
9	3	5	4					2		1								1				9	5	32
10	2	3	4	2	1				1	2			1	2								16	6	40
Total	37	26	25	12	6	1	3	3	2	3	4	2	1	5	1	0	2	1	3	2	7	71	47	264

Chicago Land Clearance Commission
June 10, 1950

EXHIBIT XI

CUMULATIVE TOTALS OF DATE TAXES LAST PAID ON LOTS BY BLOCK

Block	20 or More Years Delin.			10-19 Years Delinquent										5-9 Years Delinquent					1-4 Years Delinquent				Current		Total
	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	
1	6	7	7	7	8	8	10	10	10	10	10	10	10	10	10	10	10	10	10	10	12	27	31	31	31
2	4	12	14	15	15	15	15	16	16	16	16	16	16	18	18	18	18	18	18	20	20	26	34	34	34
3	3	5	9	15	17	17	18	18	18	18	18	18	18	19	20	20	20	20	20	20	20	26	34	34	34
4	2	6	6	6	9	9	9	9	10	10	12	12	12	12	12	12	12	12	14	14	14	16	17	17	17
5	0	1	3	4	4	4	4	4	4	4	6	7	7	7	7	7	7	7	7	7	7	10	14	14	14
6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	2	2	3	12	14	14	14
7	5	5	11	11	11	11	11	11	11	11	11	11	11	11	11	11	11	11	11	11	11	13	14	14	14
8	12	14	17	18	18	19	19	19	19	19	19	20	20	20	20	20	21	21	21	21	23	26	34	34	34
9	3	8	12	12	12	12	12	14	14	15	15	15	15	15	15	15	15	16	16	16	18	27	32	32	32
10	2	5	9	11	12	12	12	12	13	15	15	15	16	18	18	18	18	18	18	18	18	34	40	40	40
Total	37	63	88	100	106	107	110	113	115	118	122	124	125	130	131	131	133	134	137	139	146	218	264	264	264

Chicago Land Clearance Commission
June 10, 1950

77 ST

77 PL.

ROCKWELL AVE.

78 ST

78 PL.

78 PL.

EXEMPT

79 ST

MAPLEWOOD AVE.

CAMPBELL AVE.

ARTESIAN AVE.

WESTERN AVE.

NUMBER OF YEARS TAX DELINQUENT BY LOT

CURRENT

1 - 4

5 - 9

10 - 19

20 - MORE

0 100 200 300 400

CHICAGO LAND CLEARANCE COMMISSION

EXHIBIT XIII

TOTAL REVENUES, DELINQUENCIES AND ASSESSED VALUE OF VACANT LOTS BY BLOCKS

Blocks	Number of Lots	Delinquencies	% of Total Delinq.	Total Tax Revenues	% of Total Revenues	Assessed Value	% of Total Value
1	31	$ 15,990.42	12.9	$15,276.90	23.7	$ 26,767.00	22.8
2	34	28,044.47	22.7	7,758.61	12.0	15,770.00	13.4
3	34	21,180.25	17.1	8,478.63	13.2	14,396.00	12.3
4	17	13,388.01	10.8	2,479.79	3.8	5,582.00	4.8
5	14	2,673.28	2.2	2,037.05	3.2	3,578.00	3.0
6	14	667.00	.5	2,759.92	4.3	3,578.00	3.0
7	14	5,191.66	4.2	987.82	1.5	3,636.00	3.1
8	34	11,997.54	9.7	4,548.74	7.1	12,116.00	10.3
9	32	10,514.61	8.5	5,881.84	9.1	11,416.00	9.7
10	40	14,149.20	11.4	14,230.12	22.1	20,660.00	17.6
TOTAL	264	$ 123,796.44	100.0%	$64,439.42	100.0%	$117,499.00	100.0%

RELATIONSHIP OF ABOVE FACTORS (EXPRESSED AS PERCENTAGE)

BLOCK	DELINQUENCIES ASSESSED VALUE	TAX REVENUE DELINQUENCIES	TAX REVENUE ASSESSED VALUE
1	59.7	95.5	57.1
2	177.8	27.7	203.3
3	147.1	40.0	58.9
4	239.8	18.5	44.4
5	74.7	79.1	56.9
6	18.6	413.8	77.1
7	142.8	19.0	27.2
8	99.0	37.9	37.5
9	92.1	55.9	51.5
10	68.5	100.6	68.9
TOTAL	105.4	52.1	54.8

77 ST

77 PL.

ROCKWELL AVE.

78 ST

78 PL.

78 PL.

79 ST

MAPLEWOOD AVE.

CAMPBELL AVE.

ARTESIAN AVE.

WESTERN AVE.

TOTAL TAX DELINQUENCY SINCE 1927 AS A PERCENTAGE OF 1949 ASSESSOR'S VALUATION BY LOT

1-24
25-49
50-99
100-199
200-299
300-OVER

0 100 200 300 400

CHICAGO LAND CLEARANCE COMMISSION

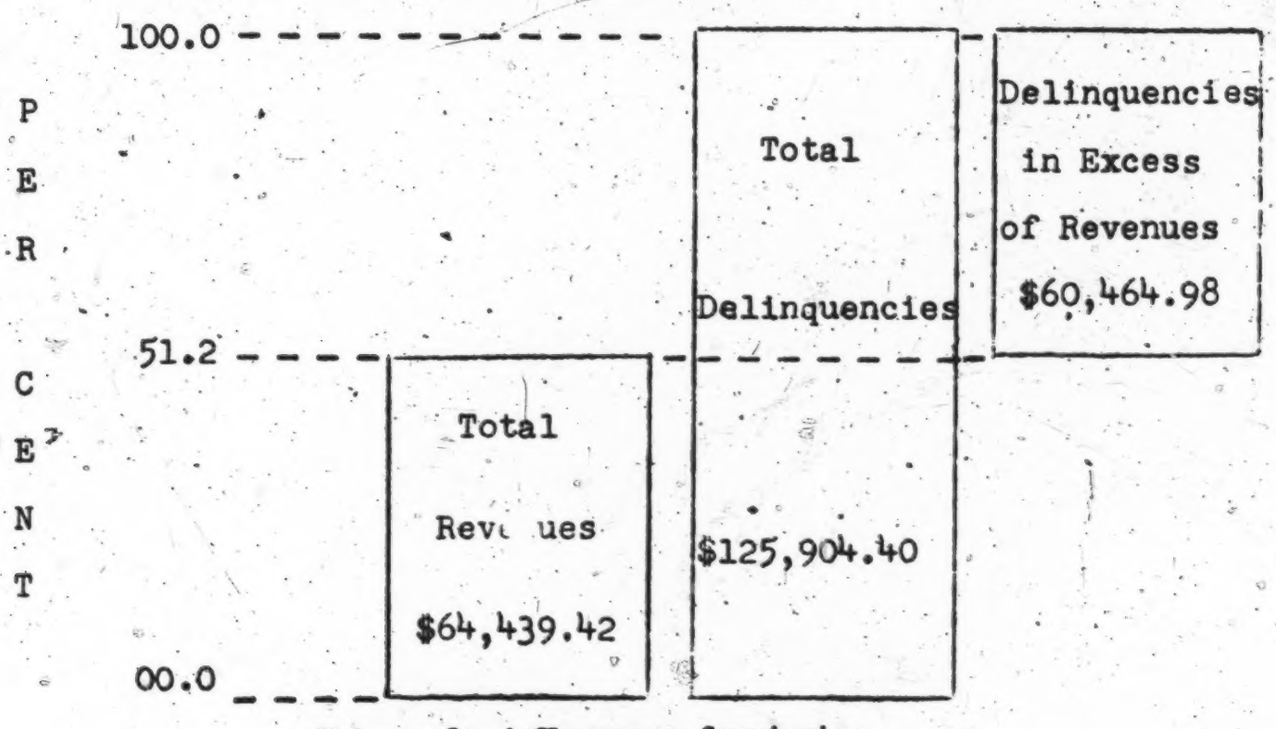
BLOCKS BY PROPORTION OF LOTS IN WHICH DELINQUENCIES EXCEED REVENUES[1]

Block Number	Lots in which Delinquencies Exceed Revenues	
	Number of Lots	% of Total Lots in Block
1	11	28.9
2	18	46.2
3	19	55.9
4	15	88.2
5	7	50.0
6	1	17.1
7	11	78.6
8	20	58.8
9	16	47.1
10	15	48.4
Total	133	50.4

[1]Excluding occupied parcels.

EXHIBIT XVI

TOTAL REVENUE RECEIPTS AS A PROPORTION OF TOTAL TAX AND SPECIAL ASSESSMENT DELINQUENCIES 1927 TO DATE



77 ST.

77 PL.

ROCKWELL AVE.

78 ST

78 PL.

78 PL.

79 ST

MAPLEWOOD AVE.

CAMPBELL AVE.

ARTESIAN AVE.

WESTERN AVE.

LOTS IN WHICH DELINQUENCY EXCEEDS REVENUE SINCE 1927

CHICAGO LAND CLEARANCE COMMISSION

0 100 200 300 400

77 PL

78 ST

78 PL

78 PL

79 ST

ROCKWELL AVE

MAPLEWOOD AVE

CAMPBELL AVE

ARTESIAN AVE

WESTERN AVE

REVENUE AS A PERCENTAGE OF DELINQUENCY

- 15-30
- 31-65
- 66-100
- OVER 100

0 100 200 300 400

CHICAGO LAND CLEARANCE COMMISSION

77 ST

77 PL

ROCKWELL AVE.

78 ST

78 PL

78 PL

79 ST

MAPLEWOOD AVE.

CAMPBELL AVE.

ARTESIAN AVE.

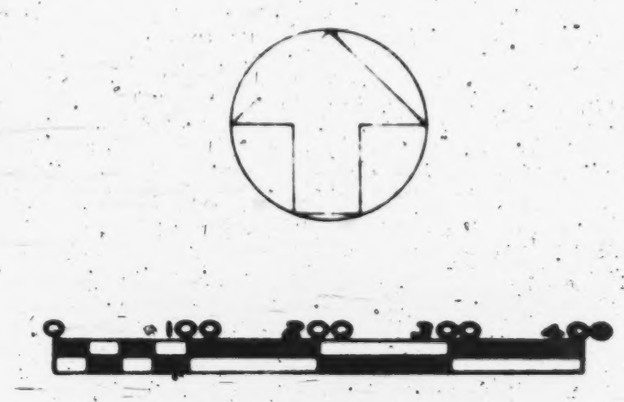
WESTERN AVE.

EXISTING PLATTING

LOT WIDTH

- 25'
- 26'-34'
- 35'
- 36'-44'
- 45'-60'

ALL STREET RIGHT-OF-WAYS WITHIN AREA ARE 66 FEET WIDE. ALLEYS ARE 16 FEET WIDE.



CHICAGO LAND CLEARANCE COMMISSION

EXHIBIT XX

RATING OF AREA

	FACTOR	GRADE	POINTS
Diversity of ownership	63	A	20
Obsolete platting	95	A	10
Tax delinquency	52	B	8
Proportion of new building	0	A	10
Type of planning area	New growth	A	10
Proximity to transportation	Less than ½ mile	A	10
Proximity to employment	1 - 3 miles	A	10
Availability of utilities	Sewers, no streets	C	5
Suitability for residential use	No side industrial	B	8
TOTAL			91

EXHIBIT XXI

July 25, 1950

MEMORANDUM

TO: Ira J. Bach

FROM: Homer Hoyt

SUBJECT: Subdivision at 77th-79th, Western to Rockwell

I favor taking the vacant subdivision at 77th-79th, Western to Rockwell for the test case for the following reasons:

1. This subdivision is in the general area where there are two or three square miles of vacant subdivisions, suitable for immediate home building where thousands of new homes have been built in areas nearby and beyond that could be acquired for new homes. It is apparent this tract and other vacant subdivisions would have been developed if it were not for diversity of the title and lack of improvements.

2. This subdivision has great diversity of ownership with 163 different owners for 274 parcels, so that it is impossible to consolidate title so that necessary improvements can be installed in all lots.

3. The subdivision has obsolete platting with most lots less than 40 feet in width, which are too narrow for modern homes, and with too many through streets that would become heavy traffic arteries, dangerous to adults and children if homes are built in old subdivision layout.

4. There is a lack of streets and underground improvements which can be installed only if one owner has entire tract as streets and sidewalks cannot be installed for absentee or unknown owners who will not pay for them.

5. There is serious tax delinquency with half of lots tax delinquent, and one-third tax delinquent 20 years or more. To take tax delinquency as chief ground for sustaining law would rule out most of areas in Chicago suitable for operation of power of condemnation because usually half of owners have paid taxes to date.

6. Owners who have kept taxes paid up will receive adequate compensation for their land, which they cannot use now because the lots are too narrow, and underground improvements are lacking.

7. Mass transportation at 79th and Western is excellent, as it is a transfer point between busses and street cars on both 79th and Western and this makes this a good location for workers going to industries.

8. This tract is near great industrial plants like Tucker plant that will be used in war, and also Clearing District so that homes here will furnish homes for war workers.

9. This tract is large enough - 40 acres - to permit the planning of a residential neighborhood conforming to ideal planning standards with heavy traffic routed around the neighborhood and the recreation areas in the center.

10. Building homes in this area will strengthen the tax base of Chicago because new homes will yield tax revenue on land that is now paying very little. Collection of delinquent taxes will also aid city financially.

11. Home areas are needed inside the City of Chicago where residents can save time and money in going to and from places of employment.

12. A favorable decision in this case would set a precedent for the redevelopment of that part of Chicago where most of large tracts suitable for homes are available.

377 Map, attached to petitioner's Exhibit 8A, showing boundary of area included in Blighted Vacant Area Redevelopment Project Number 2. Said map is as follows:

E.½ S E¼ SEC. 25-38-13

W. 76TH ST.

W. 77TH ST.

W. 77TH PL.S

AV. 66

AV. 66

AV. 66

BLOCK 8

BLOCK 9

BLOCK 10

ARGYLE CT.

NO. 2

39

BUILDING LINE

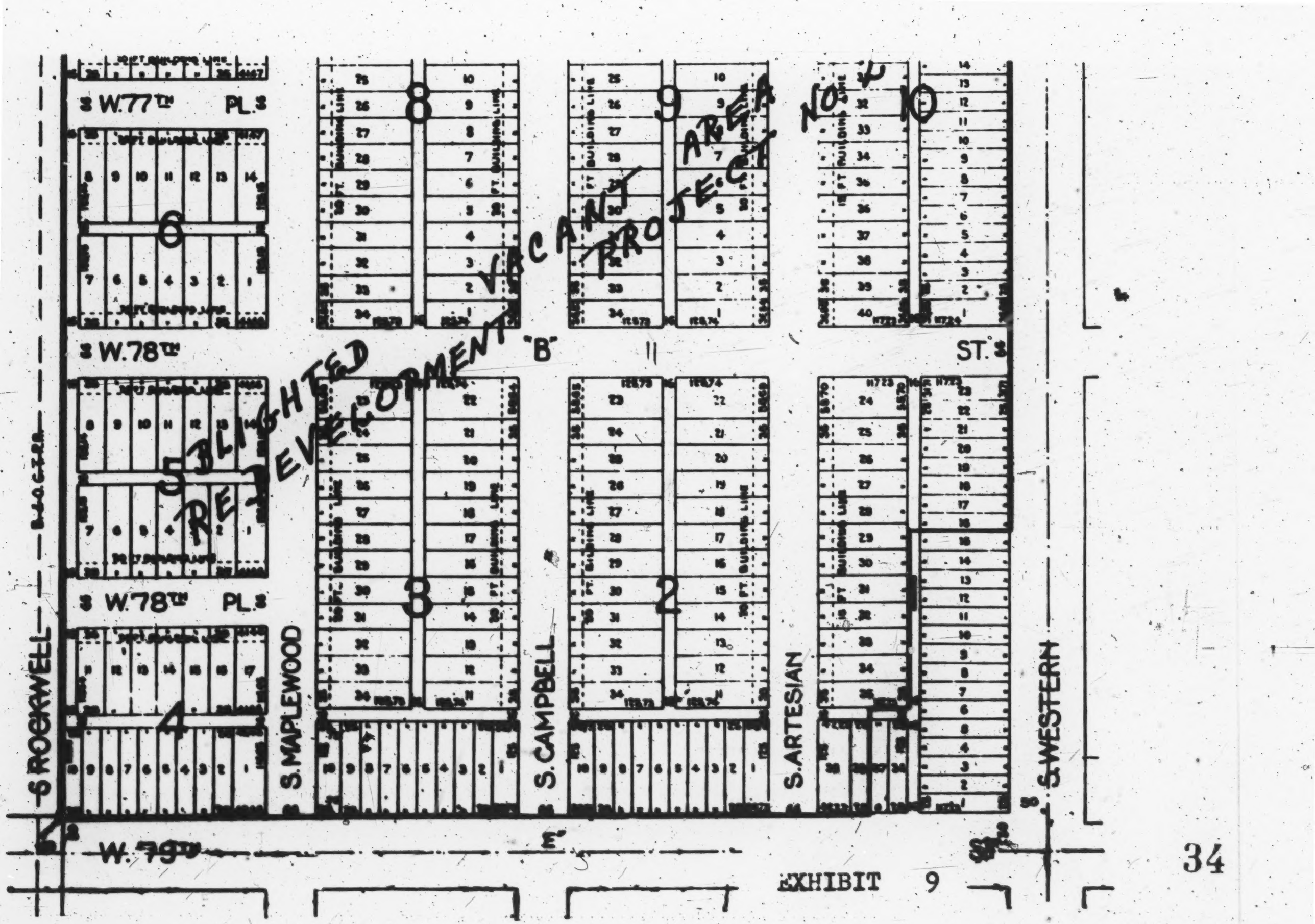

2 W.77TH PL.S
2 W.78TH
3 W.78TH PL.S
3 W.78TH
W. 79TH
S. ROCKWELL
S. MAPLEWOOD
S. CAMPBELL
S. ARTESIAN
S. WESTERN
BLIGHTED
REDEVELOPMENT
"B"
AREA
PROJECT
NO. 2
ST.

EXHIBIT 9

381 Petitioner's Exhibit 10 being State Housing Board Resolution No. 51-SHB-53, dated July 11, 1951, entitled "Resolution No. 51-SHB-53, approving a designation that the land at 79th and Western Avenue is a Blighted Vacant Area." Said Resolution reading in part as follows:

WHEREAS, the Chicago Land Clearance Commission has investigated an area of predominantly open urban land and has taken into consideration the characteristics of the area, and whereas, the Executive Director of the Commission has presented to the State Housing Board a report on said area entitled "Analysis and Recommendations of the Planning Division of the Blighted Vacant Land Site at 79th Street and Western Avenue," dated July 26, 1950, finding that certain land lying between 77th and 79th Streets, Rockwell Street and Western Avenue, in the City of Chicago, Illinois, meets the requirements of Section 3(1) of the Act for a "Blighted Vacant Area Redevelopment Project"; and

WHEREAS, on the 11th day of July, 1951, the City Council of the City of Chicago, pursuant to a resolution received from the Chicago Land Clearance Commission approved the designation of the area at 79th Street and Western Avenue as a Blighted Vacant Area, and

382 WHEREAS, the State Housing Board has visited the vacant property at 79th and Western Avenue, and has considered the documents, charts and characteristics of the area submitted with the resolution

of the Chicago Land Clearance Commission, and has determined that this certain land lying between 77th and 79th Streets, Rockwell Street and Western Avenue, in the City of Chicago, Illinois, meets the requirements of Section 3(1) of an Act for a Blighted Vacant Area Redevelopment Project;

NOW, THEREFORE, be it resolved by the State Housing Board, that:

1. The aforementioned real estate lying between 77th and 79th Streets, Rockwell Street and Western Avenue, in the City of Chicago, Illinois, consisting of predominantly open platted urban land, which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements or taxes or special assessment delinquencies exceeding the fair value of the land, substantially impairs or arrests the sound growth of the community, and which is to be developed for predominantly residential uses, meets the requirements of Section 3(1) of the Blighted Areas Redevelopment Act of 1947;

2. The designation of the above mentioned area as a Blighted Vacant Area Redevelopment Project by the Chicago Land Clearance Commission is hereby approved.

421 Petitioner's Exhibit 20 being the final judgment order dated May 14, 1952, in Quo Warranto case, Circuit Court of Cook County, Illinois, No. 51 C 9074 entitled "People of the State of Illinois, ex rel, John S. Boyle, State's Attorney of Cook County, Plaintiff, vs. City of Chicago, a Municipal corporation, Chicago

Land Clearance Commission, a Municipal corporation, et al, Defendants. (Said judgment order relating to the identical area involved in this appeal and an appeal taken from said final judgment order was affirmed by the Supreme Court of Illinois, and reported in 414 Ill. 600. See pages 20, 21 Appellants' abstract of record).

The findings of said final judgment order reading in part as follows:

6. "Said area described in the complaint as Blighted Vacant Area Redevelopment Project No. 2 is predominantly open platted urban land, which, by reason of obsolete platting, diversity of ownership, deterioration of site improvements and tax delinquencies exceeding the assessed value of the entire area substantially impairs and arrests the sound growth of the community and is unmarketable in fact for housing or other economic purposes unless it can be acquired by the exercise of the right of eminent domain. * * * Said area is a 'Blighted Vacant Area Redevelopment Project' as defined in said Blighted Area Redevelopment Act of 1947, as amended by said Amendatory Act."

LIBRARY
SUPREME COURT, U.S.

AUG 16 1957

JOHN T. FEY, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1957.

No. 376

THOMAS O'DONNELL and MARY O'DONNELL,
Petitioners,

vs.

CHICAGO LAND CLEARANCE COMMISSION,
a Municipal Corporation,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS.

JOHN S. BOYLE,
77 W. Washington Street,
Chicago, Illinois,
Attorney for Petitioners.

DANIEL A. GALLAGHER,
Of Counsel.

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IN THE

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vs.

CHICAGO LAND CLEARANCE COMMISSION,
a Municipal Corporation,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS.

Your petitioners, Thomas O'Donnell and Mary O'Donnell, appellants below, respectfully pray that a Writ of Certiorari issue to review the judgment of the Supreme Court of Illinois, entered on May 20, 1957.

Opinion Below:

The opinion of the Supreme Court of Illinois, dated March 20, 1957 rehearing denied May 20, 1957, is reported at 11 Ill. 2d 111 (Advance Sheets). It is set out in Appendix A of this petition.

Jurisdiction:

The jurisdiction of this Court is invoked under Title 28, U. S. Code, Sec. 1257 (3). The judgment of the Supreme Court of Illinois is dated and was entered March 20, 1957. The date of the order denying the rehearing was May 20, 1957.

Questions Presented For Review:

The principal question is whether a judgment of the Circuit Court of Cook County, affirmed in the Supreme Court of Illinois, was without due process of law and in violation of the rights of petitioners under the Fourteenth Amendment to the Constitution of the United States.

Due process of law was denied petitioners in that petitioners were never able to get certain questions decided in the Supreme Court of Illinois, that Court refusing to consider certain points made by petitioners on the ground that petitioners had failed to abstract certain portions of the record, the Supreme Court of Illinois disregarding the arguments of petitioners to the effect that:

1. Petitioners were individuals of moderate means opposing a multi-million dollar municipal Corporation,

2. The lower Court had allowed respondent to glut the record with 34 voluminous exhibits, over the objections of petitioners.

3. No rule of the Supreme Court of Illinois provided that before a point directed to a certain portion of the record could be considered that part of the record must be abstracted.

Due process of law was denied petitioners in the Supreme Court of Illinois in that the Supreme Court of Illinois disregarded the arguments of petitioners to the effect that respondent had failed to make out a prima facie case and arbitrarily placed the responsibility for proving respondent's case upon the petitioners.

Due process of law was denied petitioners in that the Supreme Court of Illinois refused to decide certain points raised by petitioners upon the spurious ground that the

same points had been decided in a previous case, when in truth and in fact the Supreme Court of Illinois in that previous case had stated it would not decide such point.

Due process of law was denied petitioners in that the Supreme Court of Illinois arbitrarily rejected petitioner's arguments that conditions had changed, making it unnecessary to condemn the property of petitioner and others, and unreasonably surmising that petitioners and other property owners were not interested in paying taxes on their property until it was in danger of being taken away from them by eminent domain.

Due process of law was denied petitioners in that the Supreme Court of Illinois refused to take judicial notice of certain universally accepted and well-known facts and arbitrarily and unreasonably determined that such facts did not exist because petitioners had offered no evidence thereof.

United States Constitution, Article and Section, and Illinois Statute involved.

The part of the United States Constitution involved is that part of Amendment XIV, Section 1, which provides:

> "No State shall make or enforce any law which shall abridge the privileges or immunities of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law."

That part of the Statutes of the State of Illinois involved is that portion of the statute known as "Blighted Areas Redevelopment Act," Secs. 63 to 91, chapter 67½, Ill. Rev. Stats. 1955, which provides, at Sec. 65 (L),

> "Blighted Vacant Area Redevelopment Project" means a project involving (1) predominantly open

platted urban or suburban land which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or taxes or special assessment delinquencies exceeding the fair value of the land, substantially impairs or arrests the sound growth of the community and which is to be developed for predominantly residential uses."

Statement of Case:

I.

The legislature of the State of Illinois in 1947 enacted a statute providing for the acquisition of blighted areas by eminent domain. (Ill. Rev. Stats., 1947, Ch. 67½, Secs. 63 to 91).

In 1949 the legislature enlarged this statute by providing that vacant land could also be blighted and being so blighted could also be acquired by eminent domain.

In this 1949 statute the Illinois legislature defined a "blighted vacant area".

The pertinent section of said statute is as follows, Ill. Rev. Stats., 1949, Ch. 67½, Sec. 65 (L):

> "(L) "Blighted Vacant Area Redevelopment Project" means a project involving (1) predominantly open platted urban or suburban land which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or taxes or special assessment delinquencies exceeding the fair value of the land, substantially impairs or arrests the sound growth of the Community and which is to be developed for predominantly residential uses, . . ."

The petitioners bought a vacant residential lot on the South side of the City of Chicago, Illinois in March, 1951. They applied for a building permit from the City

of Chicago and were granted one July 11, 1951. This permit was revoked without explanation on August 10, 1951.

Acting under the purported authority of the 1949 Statute the respondent, the Chicago Land Clearance Commission, declared that the forty acres located at 79th Street and South Western Avenue, in Chicago, Illinois, was a blighted vacant area within the meaning of the statute. Included in this area was the petitioners' lot. This declaration was made by the respondent on July 26, 1950.

On September 19, 1951 a proceedings designated a quo warranto proceedings was started to test the validity of the statute. The statute was upheld as constitutional in *People ex rel. Gutknecht* v. *City of Chicago*, 414 Ill. 600, the opinion of the Supreme Court of Illinois being rendered March 23, 1953.

On June 7, 1955, five years after its determination of July 26, 1950, the Chicago Land Clearance Commission filed suit in the Circuit Court of Cook County, Illinois to acquire the property of petitioners, and others.

Petitioners contended that the Chicago Land Clearance Commission had no right to take the property of petitioners. The Circuit Court of Cook County overruled this contention and the Supreme Court of Illinois affirmed the lower court.

ARGUMENT.

In *People ex rel. Gutknecht* v. *City of Chicago*, 414 Ill. 600, the quo warranto case which upheld the validity of the statute, it was urged that if the Chicago Land Clearance Commission was to make a determination that an area was a blighted area because tax delinquency exceeded the fair value of the land, the property owner was entitled, under the due process of law provisions, to notice and hearing on the question as to the fair value of the land.

The Supreme Court of Illinois in the *Gutknecht* case ruled that the property owner could get such a hearing in the actual eminent domain proceeding.

In the *Gutknecht* case, at P. 616 and 617 of the opinion the Supreme Court of Illinois stated:

> "The complaint appears to be that in the first instance, in comparing the "fair value" of land under consideration with accumulated tax delinquencies, the Commission ascertains "fair value" without notice or hearing to owners or other interested persons. But, as the Act makes clear, "fair value" is relevant only in appraising the extent of tax and special assessment delinquencies, in the course of determining the causes of the unmarketability of an area under consideration. The decision of a condemning body to acquire property by eminent domain is not a taking of the property *and no question of due process is presented.* The taking can, of course, only be accomplished by the filing of a petition and the ascertainment and payment of compensation for the property. (*Chicago, Burlington and Quincy Railroad Co.* v. *Cavanaugh*, 278 Ill. 609, 617.) A complete answer to plaintiff's contention is found in *Zurn* v. *City of Chicago*, 389 Ill. 114, 133, where this Court, in rejecting a like contention, said: "The

> Court, in any condemnation suit instituted by a redevelopment corporation, will determine whether *these conditions precedent* to the exercise of the right have been complied with. The hearing, therefore, in the suit in which it is sought to acquire property by eminent domain, gives to the property owner the right and the opportunity to be heard upon all questions on which he is entitled to a hearing and fulfills all the requirements of due process of law."

Proceedings to condemn the area in question, including petitioners' property, were started in the Circuit Court of Cook County, Illinois on June 7, 1955, almost five years after respondent had determined to acquire it by its resolution of July 26, 1950.

In the Circuit Court of Cook County, Illinois the petitioners contended that respondent had never determined the fair value of the land, but instead had determined that the land was blighted because tax delinquency exceeded the *assessed* value of the land, a value for tax purposes having no bearing on and being only a fraction of fair value.

The Supreme Court of Illinois, in passing upon petitioners' contention in their appeal in the instant cause, rejected the contention of petitioners to the effect that due process of law required that the Chicago Land Clearance Commission make a determination of the fair value of the land, and placed the onus of proving the fair value of the land upon the petitioners, holding that "defendants offered no evidence as to the value of the area." (Rec. p. 7).

The Supreme Court of Illinois then went on to hold that even if no finding was made to the effect that tax delinquency exceeded the fair value of the land such a finding was not essential, holding that an area could be

a blighted vacant area if certain other enumerated conditions, obsolete platting, diversity of ownership and deterioration of site improvements existed.

It was pointed out that the Chicago Land Clearance Commission had never determined the fair value of the land; it was pointed out that the Chicago Land Clearance Commission had admitted that the site improvements, sewers, were in "excellent condition."

It was pointed out that the legislature of the State of Illinois has failed to define the terms "obsolete platting" and "diversity of ownership" and such terms did not have an accepted definition, and therefore to delegate power to acquire property by eminent domain because of "obsolete platting" and "diversity of ownership" amounted to an unconstitutional delegation of legislative power without setting up sufficient standards.

To this the Supreme Court of Illinois in its latest opinion in petitioner's appeal, held that it decided such question in *People ex rel Gutknecht* v. *City of Chicago,* 414 Ill. 600.

It is respectfully submitted that in the opinion in the *Gutknecht* case the Supreme Court of Illinois did not determine such question, holding only that the term "tax delinquency exceeding the fair value of the land" set up a sufficient standard and never passing on the question that the terms "obsolete platting" and "diversity of ownership" set up proper standards for a determination as to what constituted a blighted vacant area.

Thus, the Supreme Court of Illinois, in its opinion in the *Gutknecht* case, told the property owners that the fact of tax delinquency exceeding the fair value of the land could be determined in an eminent domain case and it

failed to rule on the question whether or not the terms "obsolete platting" and "diversity of ownership" set up proper standards. Then the Supreme Court of Illinois held, in Petitioner's Appeal, that the situation of tax delinquency exceeding the fair value of the land was not essential, and it stated that it had ruled in the *Gutknecht* case that the terms "obsolete platting" and "diversity of ownership" set up sufficient standards and it would not rule on such questions in petitioners' appeal when in fact it had never made any such ruling in the *Gutknecht* case.

In short, petitioners and other property owners were told by the Supreme Court of Illinois in the *Gutknecht* case that they could have their day in Court in an actual eminent domain proceedings wherein it could be demanded that the condition precedent to the exercise of the right of eminent domain, to-wit, the existence of tax delinquency exceeding the fair value of the property, must be proved.

Then, in the instant case, the Supreme Court of Illinois, not only did not require the respondent, Chicago Land Clearance Commission, to establish tax delinquency exceeding the fair value of the land as a condition precedent but reversed itself and held that it was not a condition precedent, stating in its opinion:

> "It is clear from the reading of the act as a whole that a finding that taxes or special assessment delinquencies exceed the fair value of the land is not essential to such a determination."

Thus, petitioners are still groping in a "legal jungle" looking for due process of law, now being told that their property can be taken for "obsolete platting," whatever that is, and "diversity of ownership", whatever that is.

2.

Petitioners made the point that the Chicago Land Clearance Commission determined that the area was a blighted vacant area on July 26, 1950 and did not file in Court a petition to condemn until June 7, 1955.

Petitioners urged that such a determination, because of the lapse of almost five years, was obsolete, and could not be used as a basis for the acquiring of petitioner's property.

The Supreme Court of Illinois, in its opinion, stated arbitrarily that "while the period that elapsed was long, we do not think that it was unreasonable under the circumstances".

It is submitted that due process of law requires that the acquiring of property by eminent domain be accomplished with reasonable speed.

To stigmatize a man's property as "blighted" and then to stall and dawdle for five years before doing anything to acquire it deprives him of a valuable right.

To pass upon petitioners' objections, as the Supreme Court of Illinois did, by stating that "while the period that elapsed was long, we do not think that it was unreasonable under the circumstances," without stating any reasons why the Supreme Court of Illinois did not think it was unreasonable under the circumstances, does not decide anything. To petitioners' arguments that the housing shortage had been eliminated in the five years of respondent's stalling around the Supreme Court of Illinois refused to take judicial notice of this elimination of the housing shortage, as evidenced by the ending of rent controls in 1953, and the tremendous home construction all over the United States, and the Supreme Court of Illi-

nois told petitioners, in its opinion, that they hadn't proved that which required no proof.

3.

When the petitioners did prove that tax delinquencies had been eliminated betwen 1950 and 1955 the Supreme Court of Illinois saw fit to hold that fact against petitioners, stating in the opinion:

> "The chronology of events strongly suggests that the sudden interest in clearing up back taxes was generated by the Commission's determination, and in any case what is relevant is the situation as it existed when the Commission made its determination."

Thus, the Supreme Court of Illinois says in its opinion, to the petitioners, you didn't prove conditions have changed, and even if they have changed we think it suspicious and even if you have established that conditions have changed we now come to the conclusion that such changes are irrelevant.

4.

In the lower court the respondent glutted the record by putting in evidence 34 voluminous exhibits.

Petitioners objected to the admitting of these exhibits in evidence.

Petitioners offered in evidence only four exhibits, each simple one-page documents.

The lower court even admitted into evidence the 1923 Comprehensive Zoning Ordinance of the City of Chicago.

The lower court even admitted into evidence the first redevelopment plan of respondent Chicago Land Clearance Commission, although this plan had been adandoned by respondent.

The second plan of redevelopment was attacked by petitioners.

This plan was not abstracted by petitioners. To abstract this plan would cost a great deal of money.

In their brief petitioners craved the indulgence of the Court and reminded the Supreme Court of Illinois that there was no rule of that court which said that the Supreme Court of Illinois would not consider a point unless that portion of the record to which such point referred was abstracted.

Even the attorneys for the respondent recognized that to disregard petitioners' argument because this portion of the record was not abstracted was to "indulge in technicalities."

But the Supreme Court of Illinois, disregarding the circumstances of a multi-million dollar municipal corporation aligned against a small property owner, disregarding the fact that such plan was in the record, and disregarding the right of these small property owners to their day in Court, refused to consider the points urged by petitioners with respect to the Second Redevelopment Plan, stating curtly, in its opinion "Because the plans have not been abstracted we do not discuss these issues."

It is submitted that this amounted to a denial of due process of law.

CONCLUSION.

For foregoing reasons this petition for a writ of certiorari should be granted, the affirmance of the judgment of the Circuit Court of Cook County, Illinois by the Supreme Court of Illinois should be reversed and the judgment of said Circuit Court of Cook County, Illinois should be set aside.

Respectfully submitted,

JOHN S. BOYLE
Attorney for Petitioners.

DANIEL A. GALLAGHER,
Of Counsel.

APPENDIX A.

The opinion of the Supreme Court of Illinois in the instant case, Docket No. 34263, January Term, 1957, *Chicago Land Clearance Commission, Appellee,* v. *Quinn Home Builders (Thomas O'Donnell and Mary O'Donnell, Appellants)* 11 Ill. 2d 111 (Advance Sheets).

MR. JUSTICE SCHAEFER delivered the opinion of the court:

This is an appeal from a judgment of the circuit court of Cook County in an eminent domain proceeding under the Blighted Areas Redevelopment Act of 1947 as amended in 1949. (Ill. Rev. Stat. 1953, chap. 67½, pars. 63-91.) The "blighted vacant area" in which the defendants' property is located lies between West Seventy-seventh Street, South Western Avenue, West Seventy-ninth Street and South Rockwell Street, in the city of Chicago. It is the area that was before this court in *People ex rel. Gutknecht* v. *City of Chicago,* 414 Ill. 600.

Defendants do not attack the adequacy of the verdict returned by the jury. Rather they contend that the court erred in overruling their traverse to the petition to condemn and in denying their post-trial motion to vacate the judgment and dismiss the petition. The grounds urged are (1) that the Commission's determination that the area was a blighted vacant area was contrary to the express provisions of the act, (2) that the determination, which was made on July 26, 1950, could not reasonably support a petition to condemn filed in June, 1955, (3) that the act is unconstitutional in that it fails to define the term "blighted vacant area" with sufficient precision.

Defendants' third ground has been disposed of by our decision in *People ex rel. Gutknecht* v. *City of Chicago*, 414 Ill. 600, in which the constitutionality of the act was sustained against an identical attack.

The right of a land clearance commission to proceed under the statute with respect to a blighted vacant area depends on a determination that the particular area impairs or arrests the sound growth of the community, "because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or taxes or special assessment delinquencies exceeding the fair value of the land, * * *." (Ill. Rev. Stat. 1953, chap. 67½, par 65.) Such a determination was made in this case by the Chicago Land Clearance Commission, and it was approved by the city council and the State Housing Board. Documents so showing were received in evidence, and they established, *prima facie*, the authority of the Commission to acquire the land by eminent domain. *Decatur Park District* v. *Becker*, 368 Ill. 442; *Forest Preserve District* v. *Kean*, 298 Ill. 37.

Defendants argue that the Commission's determination that the area in question is a blighted vacant area is fatally defective because it is based upon a finding that tax delinquencies exceed the "assessed value" of the land, instead of its "fair value" as the statute requires. But neither the Commission's determination of July 26, 1950, the ordinance of the city of Chicago approving it, dated July 11, 1951, nor the resolution of the State Housing Board approving it, dated the same day, contains any reference to the assessed value of the land. Each of them refers to "taxes or special assessment delinquencies exceeding the fair value of the land."

The reference to assessed value upon which defendants rely is contained in a pamphlet report made to the Com-

mission by its planning division. Defendants ask us to read this report, which was introduced into evidence by the Commission over defendants' objection, together with the Commission's findings, and to conclude that the findings should be understood as speaking of the assessed value of the land instead of the fair value. In our opinion the inference that defendant seeks to draw from the pamphlet report is unsufficient to vitiate the accuracy of the Commission's statement of its findings. Def ndants offered no evidence as to the value of the area, or as to the total amount of delinquent taxes, special assessments, penalties and interest. Neither of those figures appears in the record. The pamphlet report, which states that "in the area as a whole, delinquencies exceed assessed value by almost $6300," does not purport to deal with interest and penalties, although on more than one third of the lots no taxes had been paid for more than 20 years.

But even if the Commission's findings concerning tax delinquencies had contained an express reference to the assessed value of the land, its determination that the area is a blighted vacant area within the meaning of the act would not for that reason be defective. It is clear from a reading of the act as a whole that a finding that taxes or special assessment delinquencies exceed the fair value of the land is not essential to such a determination. The question for the Commission to determine is whether the area is one that impairs or arrests the sound development of the community by reason of certain enumerated conditions, stated disjunctively. Tax delinquency is only one of these conditions.

In our opinion defendants have not sustained their argument that the Commission's determination of July 26, 1950, could not reasonably support a petition for condem-

nation filed in June, 1955. Section 14 of the statute as it stood between these dates conditioned the Commission's authority to exercise the right of eminent domain upon presentation of a plan for redevelopment of the property by an eligible purchaser, and approval of that plan by the Commission, the governing body of the municipality and the State Housing Board. Ill. Rev. Stat. 1953, chap. 67½, par. 76.

An acceptable redevelopment plan was presented to the Commission on June 11, 1951, and was approved on that date. The State Housing Board and the Chicago city council approved the plan on July 11, 1951. On September 19, 1951, a quo warranto action was filed, challenging the Commission's power to proceed under the Redevelopment Act as amended in 1949. It was claimed that the act was unconstitutional in several respects. A final determination was not reached until March 23, 1953, when this court sustained the Redevelopment Act as amended against the claims of unconstitutionality. (*People ex rel. Gutknecht* v. *City of Chicago*, 414 Ill. 600.) The original redevelopment plan was withdrawn, and a new plan was submitted to the Commission and approved September 8, 1954. The approval of the Chicago city council was secured on November 4, 1954, and that of the State Housing Board on November 17, 1954. Section 14 of the act provides that upon these approvals the Commission may proceed to acquire the property "by gift, purchase or condemnation." (Ill. Rev. Stat. 1955, chap. 67½ par. 76.) The Commission then negotiated with the owners for the purchase of the property, and finally, in June of 1955, filed its petition to condemn those parcels it was unable to purchase. While the period that elapsed was long, we do not think that it was unreasonable under the circumstances, or that the delay can fairly be ascribed to any lack of diligence on the Commission's part.

But defendants insist that the underlying factors that led to the determination of July 26, 1950, have changed sufficiently during the intervening period to make that determination obsolete for purposes of the present proceeding. They suggest that because of an increase in available housing, the proposed redevelopment is no longer necessary, but they did not offer any evidence to that effect. Their main contention turns on the fact that through a multitude of tax foreclosure suits the tax delinquencies that existed on July 26, 1950, have largely been eliminated. We think this change in the tax delinquent status of the area is irrelevant. The chronology of events strongly suggests that the sudden interest in clearing up back taxes was generated by the Commission's determination, and in any case what is relevant is the situation as it existed when the Commission made its determination.

The final section of defendant's brief is designated "Comment on the Redevelopment Plans." In it defendants criticize certain aspects of the plans. The Commission challenges defendants' standing to advance these objections and the authority of the court to consider them, citing *State* v. *Land Clearance for Redevelopment Authority*, 364 No. 947, 270 S.W. 2d 44, 56; *Balsamo* v. *Providence Redevelopment Agency*, (R.I.) 124 A. 2d 238, 241. Because the plans have not been abstracted we do not discuss these issues.

The judgment of the circuit court of Cook County is affirmed.

JUDGMENT AFFIRMED.

APPENDIX B.

Final Orders of Supreme Court of Illinois.

And now, on this day, this cause having been argued by counsel, and the Court, having diligently examined and inspected as well the record and proceedings aforesaid, as matters and things therein assigned for error, and now, being sufficiently advised of and concerning the premises for that it appears to the Court now here that neither in the record and proceedings aforesaid, nor in the rendition of the judgment is there anything erroneous, vicious or defective, and in that record there is no error.

Therefore, it is considered by the Court that the judgment of the Circuit Court of Cook County aforesaid, Be Affirmed in all things and stand in full force and effect, notwithstanding the said matter and things therein assigned for error. And it is further considered by the Court that the said Appellee recover of and from the said Appellants costs by it in this behalf expended, to be taxed, and that it have execution therefor. Entered on March 20, 1957.

On May 20, 1957 the following order was entered:

And now, on this day, the Court having duly considered the petition for rehearing filed herein, and being now fully advised of and concerning the premises, doth overrule the prayer of the petition and denies a rehearing in this cause.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1957.

No. 376

THOMAS O'DONNELL AND MARY O'DONNELL,
Petitioners,

vs.

CHICAGO LAND CLEARANCE COMMISSION,
A MUNICIPAL CORPORATION,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS.

BRIEF FOR THE CHICAGO LAND CLEARANCE COMMISSION IN OPPOSITION.

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THE DONNELLEY-GARBER PRINTING COMPANY, CHICAGO

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STATUTE INVOLVED.

The pertinent provisions of Sections 13 and 14 of the Blighted Areas Redevelopment Act of 1947, as amended in 1949 (being pars. 75 and 76 of Chapter 67½ of the Illinois Revised Statutes, 1953) are set forth in the Appendix, *infra*, pages 11-12.

STATEMENT OF THE CASE.

The facts shown by the record and as stated by the Supreme Court of Illinois (Pet. 1a-5a) may be summarized as follows:

This was a proceeding to acquire an area embracing ap-

proximately 40 acres of land consisting of 264 lots (Addl. R. 6, 8) including a vacant lot of the Petitioners located in a blighted vacant area for resale and development pursuant to the Blighted Areas Redevelopment Act of 1947 as amended in 1949 (Ill. Rev. Stat. 1953, Chap. 67½, pars. 63-91); hereinafter referred to as the "Act".

The Chicago Land Clearance Commission (hereinafter referred to as "Commission") by Resolution (Addl. R. 2-4) on July 26, 1950 found and determined that "the area consists of predominantly open platted urban land, which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or taxes or special assessment delinquencies exceeding the fair value of the land, substantially impairs or arrests the sound growth of the community and which is to be developed for predominantly residential uses" (Addl. R. 3) and that the area should be acquired pursuant to the provisions of the Act and that it be designated as "Blighted Vacant Area Redevelopment Project Number 2." (Addl. R. 4.)

Section 13 of the Act (Ill. Rev. Stat. 1953, Chap. 67½, par. 75) provides that "No such determination shall be of any force or effect until such time as it has been approved by the State Housing Board and the governing body of the Municipality in which the area is situated."

Section 14 of the Act (Ill. Rev. Stat. 1953, Chap. 67½, par. 76) provides "that land embraced within a 'Blighted Vacant Area Redevelopment Project' shall not be acquired by a land clearance commission through the exercise of the right of eminent domain unless an eligible purchaser * * * has first presented a plan for the development * * * of such property * * * which plan has been approved by the Land Clearance Commission, the State Housing Board and the governing body of the Municipality in which the real property is situated."

A redevelopment plan was presented to the Commission and it approved the same on June 11, 1951 (R. 30, 31). The determination of July 26, 1950 and the redevelopment plan were approved on July 11, 1951 by the State Housing Board (R. 31, Addl. R. 35, 36), and by the City Council of the City of Chicago (R. 20, Addl. R. 1, 2).

Within two months after the approvals, namely, on September 19, 1951, a *quo warranto* action was filed, challenging the Commission's power to proceed under the Act (R. 20). It was claimed that the Act was unconstitutional in several respects. A final determination was not reached until March 23, 1953, when the Supreme Court of Illinois sustained the Act (*People ex rel. Gutknecht* v. *City of Chicago,* 414 Ill. 600). That case involved the very same area which is the subject matter of the instant case (R. 20, 21).

Until March 23, 1953, the Commission could have done no more than it did. It then became necessary, because of withdrawal of the original development plan (R. 24) to obtain from another eligible purchaser a desirable redevelopment plan and to get its approval by the State Housing Board and by the City Council of the City of Chicago prior to instituting eminent domain proceedings. This was required because Section 14 of the Act provided that property in a blighted vacant area could not be acquired by eminent domain until such time as there was an approved development plan. The Commission approved the substituted plan of redevelopment on September 8, 1954 (R. 31) and it was approved by the City Council of the City of Chicago on November 4, 1954 (R. 31) and by the State Housing Board on November 17, 1954 (R. 31). The Commission filed its Petition to Condemn on June 7, 1955 in the Circuit Court of Cook County (R. 1). Petitioners filed a Traverse challenging the right of the Commission to acquire Petitioners' lot (R. 2).

The cause came on to be heard before the Court upon the

Traverse. At this trial the Commission introduced in evidence *inter alia* (a) the Resolution adopted by the Commission on July 26, 1950, together with the analysis and recommendations of the Planning Division of the Commission attached thereto (Pet. Ex. 8, R. 18; Addl. R. 2-32); (b) the Resolution of the Commission approving the redevelopment plan (R. 30, 31); (c) the Ordinance of the City Council of the City of Chicago adopted July 11, 1951, approving the determination of the Commission and the redevelopment plan (Pet. Ex. 9, R. 19; Addl. R. 1, 2); (d) the Resolution of the State Housing Board adopted July 11, 1951 approving the determination of the Commission and the redevelopment plan (Addl. R. 35, 36); (e) the Resolution of the Commission of September 8, 1954, approving the Amended Redevelopment Plan (Pet. Ex. 11, R. 31); (f) the Ordinance of the City of Chicago of November 4, 1954 (Pet. Ex. 12, R. 31) and the Resolution of the State Housing Board of November 17, 1954 (Pet. Ex. 13, R. 31) approving that plan.

The Petitioners did not introduce a scintilla of evidence to contradict the findings made in the Resolutions of the Commission, the State Housing Board and the Ordinance of the City of Chicago. Petitioners did show however, over the objections of the Commission, that at a time subsequent to the determination by the Commission there was a change in the matter of tax delinquencies. But Petitioners offered no evidence as to the value of the area or as to the total amount of delinquent taxes, special assessments, penalties and interest. The matter of tax delinquency was only one of the several factors included in the determination. No evidence at all was offered by Petitioners to challenge the other factors.

The trial court denied and overruled the Traverse.

Upon Appeal, the Supreme Court of Illinois held that the introduction in evidence by the Commission of the

Resolutions and Ordinances showing the determination by the Commission and its approval by the City Council of Chicago and by the State Housing Board that the area impairs or arrests the sound growth of the community, "because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or taxes or special assessment delinquencies exceeding the fair value of the land * * *" established *prima facie* the authority of the Commission to acquire the land by eminent domain (Pet. 2a).

The Supreme Court of Illinois found that Petitioners have not sustained their argument that the Commission's determination of July 26, 1950 could not reasonably support a petition for condemnation filed in June 1955 (Pet. 3a, 4a).

ARGUMENT.

There is no denial of due process in this case and no Federal question is involved. Petitioners were permitted to and did file a Traverse in the condemnation proceeding challenging the right of the Commission to acquire their property under the Blighted Areas Redevelopment Act of 1947, as amended in 1949. They were afforded a hearing upon the trial of the issues raised and were given full opportunity to introduce their evidence upon the subject. They took their appeal to the Supreme Court of Illinois and upon the presentation of the case to that Court, it properly affirmed the judgment.

Petitioners' contention (Pet. 8, 9) that in the opinion in the *Gutknecht* case, 414 Ill. 600, the Supreme Court did not determine the question as to whether or not the terms "obsolete platting" and "diversity of ownership" set up proper standards and their argument thereon is entirely without merit. In the *Gutknecht* case, 414 Ill. at pages 614-615, the Supreme Court stated, in part, as follows:

> "Attacking the Amendatory Act as an unlawful delegation of legislative power to the Commission, plaintiff contends that discretionary power is vested in the Commission without adequate standards because the terms 'predominantly open,' 'obsolete platting,' 'diversity of ownership,' and 'fair value,' used in subsection (1) of section 3 of the statute are not defined. What the Commission is to determine under the statute is whether or not the particular vacant area under consideration substantially impairs or arrests the sound growth of the community. Such a finding is required to be based upon subsidiary findings that the area has become unmarketable because platting is obsolete, site improvements have deteriorated, ownership is diversified, or tax delinquencies equal or exceed the fair value of the land.

"The Federal Housing Act of 1949 (42 U. S. C. A., par. 1460), which provides for the making of loans or grants by the Administrator of the Housing and Home Finance Agency to local public agencies to enable them to make land in project areas available for redevelopment, defines a project in part as follows: '(iii) land which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvement, or otherwise substantially impairs or arrests the sound growth of the community * * *.' It will be noted that this language is almost identical with that of section 3 (1) of the Amendatory Act and contains three of the four expressions to which plaintiff so strenuously objects.

"The testimony of numerous witnesses in this case shows that the four challenged terms have a recognized meaning to persons familiar with the basic problem which Congress, the General Assembly, and the city council have all recognized as a matter of serious public concern. Use of words which are commonly understood, when taken in connection with the context, does not render a statute invalid. (*People ex rel. Kerner* v. *Huls*, 355 Ill. 412.) A statute satisfies the requirement of certainty if the words and phrases employed have a technical or other special meaning sufficiently well known to enable those within their reach to apply them. *Hygrade Provision Co.* v. *Sherman*, 266 U. S. 497; *Omaechevarria* v. *Idaho;* 246 U. S. 343; *People* v. *Mueller*, 352 Ill. 124; *Amberson* v. *Amberson*, 349 Ill. 249; *Kowalczyk* v. *Swift & Co.*, 329 Ill. 308."

The Supreme Court of Illinois properly decided that Petitioners' contention that the Act is unconstitutional in that it fails to define the term "blighted vacant area" with sufficient precision has been disposed of by its decision in *People ex rel. Gutknecht* v. *City of Chicago*, 414 Ill. 600 (Pet. 2a).

The Supreme Court of Illinois found upon consideration of the evidence that the Commission had determined

the area to be a blighted vacant area within the meaning of the Act and that its determination had been approved by the City Council and by the State Housing Board. Its ruling that the documents offered by the commission and received in evidence established *prima facie*, the authority of the Commission to acquire the land by eminent domain was entirely correct and certainly did not deny the Petitioners due process of law. They were afforded full opportunity to introduce evidence on the subject. But petitioners failed to show that the area was not a blighted vacant area. Their failure to sustain their argument presents no question of due process of law.

The finding of the Supreme Court of Illinois that the Commission had determined that taxes or special assessment delinquencies exceeded the fair value of the land is certainly supported by the evidence in this case. Its further holding that the matter of taxes or special assessment delinquencies is not an essential factor is entirely correct for as the Court stated, "The question for the Commission to determine is whether the area is one that impairs or arrests the sound development of the community by reason of certain enumerated conditions, stated disjunctively. Tax delinquency is only one of these conditions" (Pet. 3a).

The contentions of Petitioners that the Commission had not filed the Petition to Condemn within a reasonable time after its determination and that because of lapse of time it became obsolete, involve nothing more than questions of fact, and the Supreme Court of Illinois upon consideration of the evidence in this case properly held that while the period that elapsed was long it was not unreasonable under the circumstances and that Petitioners have not sustained their argument that the Commission's determination of July 26, 1950 could not reasonably support a petition for condemnation filed in June, 1955.

Petitioners' contention that the refusal of the Supreme Court of Illinois to discuss the issues raised by their "Comment on the Redevelopment Plan" because the plans were not abstracted, amounted to a denial of due process is without merit. The Supreme Court of Illinois has repeatedly held the Court will not search the record to supply deficiencies in the abstract and that everything necessary to decide the questions raised on the appeal must appear in the abstract. *Department of Finance* v. *Sheldon*, 381 Ill. 256, 257 and cases therein cited. Certainly no constitutional or federal question is involved in a matter of State Court procedure (*Yazoo & M. V. R. Co.* v. *Adams*, 180 U. S. 1, 9; *Iowa Central R. Co.* v. *State of Iowa*, 160 U. S. 389, 393-394; *Simon* v. *Craft*, 182 U. S. 427, 437; *Jordan* v. *Massachusetts*, 225 U. S. 167, 174). Furthermore, Petitioners' "Comments on the Redevelopment Plan" amount to nothing more than their criticism of certain aspects of the redevelopment plan. Petitioners did not question the fact that there was an approved redevelopment plan for predominantly residential use. They merely objected to some of the details thereof. Under the Act, the legislature has seen fit to delegate to the Commission, the City Council and the State Housing Board, the duty of approving the plan of development. This Court in *Berman* v. *Parker*, 348 U. S. 26, 35-36 stated, in part, as follows:

> "It is not for the courts to oversee the choice of the boundary line nor to sit in review on the size of a particular project area. Once the question of the public purpose has been decided, the amount and character of land to be taken for the project and the need for a particular tract to complete the integrated plan rests in the discretion of the legislative branch."

There is nothing in the decision of the Supreme Court of Illinois which would warrant a review. Petitioners present no federal or constitutional question and it is re-

spectfully submitted, as this Court has stated, that the granting of the writ is not warranted merely to determine questions of fact or merely to review the evidence. *Southern Power Co.* v. *North Carolina Public Service Co.*, 263 U. S. 508, 509; *General Talking Pictures Corp.* v. *Western Electric Co.*, 304 U. S. 175, 178; *Rice* v. *Sioux City Cemetery*, 349 U. S. 70, 73-74.

CONCLUSION.

For the foregoing reasons, it is respectfully submitted that the Petition for a Writ of Certiorari should be denied.

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APPENDIX.

In addition to the part of Sec. 65(L) of Chap. 67½ of Ill. Rev. Stat. set forth by Petitioner (Pet. 3-4) which is part of Section 3(L) of the Blighted Areas Redevelopment Act of 1947, as amended in 1949, Sections 13 and 14 of said Act (Ill. Rev. Stat. 1953, Chap. 67½, pars. 75-76) provide in pertinent part, as follows:

"75. Determination that particular blighted area should be acquired—Approval by State Housing Board and governing body.] §13. Whenever a Commission determines that a particular slum or blighted area, or any other area which may constitute a redevelopment project, as herein defined, should be acquired pursuant to the provisions of this Act, such determination together with an accurate description of the area included in such determination and the date on which the determination was made shall be immediately set forth in the records of the Commission. Such determinations by a Commission may be made from time to time and need not all be made at one time. Each such determination shall be evidenced by a resolution adopted by the Land Clearance Commission.

"The area of each such determination shall be specifically designated in the resolution as a 'Slum and Blighted Area Redevelopment Project' or a 'Blighted Vacant Area Redevelopment Project', according to the determination of the Commission; * * *. No such determination shall be of any force or effect until such time as it has been approved by the State Housing Board and the governing body of the municipality in which the area is situated. As amended by act approved Aug. 3, 1949. L. 1949, p. 997."

"76. Acquisition of real property—Condemnation proceedings.] §14. Upon approval of the determination as provided in the preceding Section, the Land

Clearance Commission may proceed to acquire by gift, purchase or condemnation the fee simple title to all real property lying within the area included in the redevelopment project, including easements and reversionary interests in the streets, alleys and other public places lying within such area; provided, however, that land embraced within a 'Blighted Vacant Area Redevelopment Project' shall not be acquired by a land clearance commission through the exercise of the right of eminent domain unless an eligible purchaser as described in Section 19 of this Act has first presented a plan for the development or redevelopment of such property for predominantly residential uses, which plan has been approved by the land clearance commission, the State Housing Board and the governing body of the municipality in which the real property is situated * * *."